

EXHIBIT

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ORIGINAL

In The Matter Of:

CHRISTOPHER IRIZARRY,

v.

CORKNARD, et al.

IRIZARRY, CHRISTOPHER - Vol. 1

March 29, 2011

MERRILL CORPORATION

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER IRIZARRY,

Plaintiff,

-against

Case No. 9:10-CV-1022

CORKNARD, et al.

(GLS/DRH)

Defendants.

STENOGRAPHIC MINUTES OF DEPOSITION

Conducted of Plaintiff, CHRISTOPHER IRIZARRY, on the 29th day of March, 2011, at the offices of Great Meadow Correctional Facility, Comstock, New York, commencing at 11:33 a.m.; before ANNA-MARIE COMERIE, Shorthand Reporter and Notary Public in and for the State of New York.

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APPEARANCES:

BY: Christopher Irizarry, Pro Se
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BY: Adrienne Kerwin, Esq.
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Appearing for the Defendants

S T I P U L A T I O N S

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto that the signing and filing of the Notary's Oath be waived; that the examination be conducted before Anna-Marie Comerie, a Shorthand Reporter and Notary Public in and for the State of New York; that the filing of the transcript of testimony in the Office of the Clerk of the Court be waived; that all objections to questions, except as to the form thereof, are specifically reserved to the time of trial; that a copy of this examination shall be furnished to the attorney for the witness being examined without charge; and that the transcript of testimony will be signed before any Notary Public or other officer authorized to administer oaths.

1

CHRISTOPHER IRIZARRY

2

(first duly sworn by the Notary Public, was

3

examined and testified as follows:)

4

EXAMINATION

5

BY MS. KERWIN:

6

Q. Mr. Irizarry, let me introduce myself, I'm Adrienne

7

Kerwin from the attorney general's office. And I'm here

8

today to ask you some questions about the lawsuit that you

9

filed against a Sergeant Young and a host of other folks

10

from your time at Cocksackie. Do you know the case I'm

11

talking about?

12

A. Yes.

13

Q. If at any time you don't understand my question, let

14

me know, because I want to make sure we're talking about the

15

same thing. If you need me to rephrase it, if you have to

16

ask me what I'm talking about, please do that before you

17

answer. Okay?

18

A. Okay.

19

Q. The other thing is always make sure to answer out

20

loud not nod or shake your head. We have to make sure we

21

don't speak over each other, and I do this all the time and

22

that's why I warn other people. You're going to know what

23

I'm asking so you're going to want to start to answer before

24

I'm done. She can only take one of us down at a time so

25

wait till I finish asking before you start answering. Okay?

1 A. Okay.

2 Q. What's your full name?

3 A. Christopher Michael Irizarry.

4 Q. And what is your date of birth?

5 A. 4/29/78.

6 Q. And we're here at Great Meadows today, and you just
7 arrived here recently?

8 A. Yes.

9 Q. When did you get here?

10 A. On or around February 25, I believe.

11 Q. 2011?

12 A. Yes.

13 Q. And where had you been prior to Great Meadows?

14 A. Southport.

15 Q. And how long had you been at Southport?

16 A. Approximately, say 19 months until it was, until the
17 determination was reversed by the court and they released me
18 out of the box.

19 Q. And where had you been immediately prior to
20 Southport?

21 A. Cocksackie.

22 Q. And is this time at Cocksackie the time we're going to
23 talk about today?

24 A. Yes.

25 Q. How long total were you at Cocksackie during this time

1 period?

2 A. 58 days, 59 days.

3 Q. Where had you been immediately prior to that?

4 A. Clinton Annex.

5 Q. And how long is the sentence that you are serving
6 now?

7 A. Twenty years.

8 Q. Do you know the date of your conviction?

9 A. You want the date I was sentenced or the date I was
10 convicted?

11 Q. Well, if you remember either one, but the
12 conviction --

13 A. 9/15/1998.

14 Q. That's the conviction date?

15 A. That's the date I blew trial.

16 Q. And what was the conviction for?

17 A. Robbery and burglary.

18 Q. So did you enter New York State Department of
19 Corrections custody in 1998?

20 A. 1999.

21 Q. Prior to entering State Department of Corrections
22 custody in 1999 had you ever been in New York State custody
23 before?

24 A. Yes.

25 Q. What was the date of that incarceration?

1 A. On or around January 22, 1996.

2 Q. That's when you went in?

3 A. Yes.

4 Q. And when did you get out?

5 A. October 3, 1997.

6 Q. Had you been in New York State custody before that?

7 A. No.

8 Q. So it's just the two terms of custody that we are
9 talking about that you had?

10 A. Yes.

11 Q. Okay. Now, I've gone through your complaint its kind
12 of long. It might take us a little long to go through.

13 A. Can I look at what I brought along?

14 Q. If you want to sure. Now, I'm going to ask you some
15 questions, and I might cut you off to ask you another
16 question so don't think I'm being rude.

17 How long after you arrived at Cocksackie did this
18 incident happen?

19 A. About 54 days later. No, I'd say 40 something days.
20 I was only there for about a month and a couple of days.

21 Q. So you were there about 58, 59 days?

22 A. Right, in population, but in the box I was in SHU for
23 about two weeks. And I was immediately shipped to
24 Southport.

25 Q. And you went to SHU as a result of this incident,

1 right?

2 A. Yes.

3 Q. So when this incident happened you were still in
4 general population?

5 A. Yes.

6 Q. And in your complaint you said it happened on July
7 26, 2009; does that sound correct?

8 A. Correct.

9 Q. So start telling me what happened starting from when
10 you started to the mess hall?

11 A. Well, I was en route to the mess hall that particular
12 afternoon or morning it was around 11, I forget what time it
13 was, but while en route to the mess hall Sergeant Young
14 pulled me out of the line to talk to me.

15 Q. Now, had you had interaction with Sergeant Young
16 prior to this date?

17 A. Nothing major, but we have had I would say small
18 dialogue as far as, you know, dressing procedures and things
19 of that nature. Me just arriving at the facility -- I was
20 there before ten years ago. And he was just refreshing me
21 on how to -- I didn't know you had to wear state down
22 everywhere you go. So one day I had a sweat shirt on he
23 told me, you know, you not supposed to wear things of that
24 nature, sneakers, how to properly tie them and everything
25 like that.

1 Q. What housing unit were you in?

2 A. I was in A3.

3 Q. And was Sergeant Young assigned to that housing unit?

4 A. No, he wasn't.

5 Q. So where would you see him when you had these
6 conversations?

7 A. Going to the mess hall en route to the mess hall.

8 Q. So the only interaction you ever had up until July
9 26, 2009 is when you were on your way to the mess hall?

10 A. Yes, that is correct.

11 Q. And was that only for the lunch meal?

12 A. He's usually there in the morning, and afternoon once
13 in a while, not always, but he was at least maybe three or
14 four times out of the week.

15 Q. Now, when he pulled you out of the line July 26 what
16 did he want to talk to you about?

17 A. Well, he asked me why did I -- at Cocksackie you have
18 to always be in cell order. It's routine there because
19 there's a gate, there's a gate when you walk into the
20 assembly area and its routine there that when the gate gets
21 blocked the officers don't like that. They always need
22 access to go in and out of the gate. I was in 38. I'm in
23 the back. Now, they got even and odd lines so they call
24 odd. The odd is on this side (indicating), excuse me, even
25 is on the right side, odd is on the left side. What they

1 tell us to do is break it off, so, whoever is in the back of
2 the line breaks it off. I broke it off. So, I happen to be
3 in the wrong line so as he said even line I went with the
4 even line which I was just following the cell rules and
5 procedures. You always supposed to be in cell order so I
6 got in line, "Hey what are you -- step out the line." I
7 step out of the line. "What are you doing?" I explained to
8 him the officers told us to break, and I was just getting
9 back in cell order cause I didn't want any problems. You
10 want me to keep going?

11 Q. Yes.

12 A. He put me through the routine, "Get on the wall." I
13 got searched, pat frisked, I walked through the metal
14 detector, and sat on a chair. I was in compliance with the
15 whole thing.

16 Q. Hold on, why did you have to go to the chair?

17 A. I guess I was suspicious or whatever, you know, they
18 do that routine in Cocksackie in the assembly area. They
19 might pick a few guys out. You walk through the assembly
20 area and sit in the boss chair. And I guess he felt I had
21 something on me or something so I went through there got
22 searched and whatever and the officer that searched me said
23 I was okay.

24 Q. Do you know who that officer was?

25 A. Verga, and he's also -- I mean the record has been

1 expunged because these, both of these misbehavior reports
2 were expunged off my record; that's another thing we can
3 talk about later.

4 Q. So they got you on the chair?

5 A. They got me on the chair. Now, I get up. Everything
6 is good. I get up, and the officer says, he's good, he
7 didn't have anything, he's all right. Then he comes over to
8 me and asks me if I have an attitude problem.

9 Q. Sergeant Young?

10 A. Yes, and he starts using disrespectful language,
11 unprofessional language, you know, using the F word and
12 addressing me as something that's not my name.

13 Q. Were you talking to Young at all when you're on the
14 chair?

15 A. No, he was conducting, I guess his post, which I
16 tried to ascertain through Foil and everything, but they
17 wouldn't give the chart posted for that day. Obviously, but
18 I don't know what it was. It had to be right there by the
19 mess hall. So he was doing his job, telling me even line,
20 you step in or you go to the north mess hall or south mess
21 hall, stuff like that. He comes up to me and says
22 basically, "This is my jail. And if you got an attitude
23 we'll fix it. I'll have someone fix it for you." You know,
24 just basically trying to admonish me for nothing because I
25 did nothing.

1 Q. And you hadn't said anything to him?

2 A. I hadn't said anything to him.

3 Q. Okay. Keep going.

4 A. Because an attitude is just a feeling. I mean, you
5 know, in prison we have feelings so we might be feeling one
6 way today another way another day that's all an attitude is.
7 My attitude was positive not negative, so he begins to say
8 all these things to me and after that --

9 Q. Did you say anything back?

10 A. I didn't say anything to him, and then he threatens
11 me and says, "Well, we're going to have someone fix your
12 attitude, adjust your attitude, this is my jail and you're
13 going to learn that and I'm going to send some people to
14 come see you." Not in those words, but its in my complaint
15 exactly what he said.

16 Q. That was the point he got across to you?

17 A. Yes.

18 Q. So you were completely silent this whole time?

19 A. Yes, I did not, you know, in his misbehavior report
20 which again for the record was ex-sponged, he said that I
21 called him an asshole and things. Excuse my language,
22 called him the A word and things of that nature, which I
23 didn't. And also, just for the record, I asked for the
24 video tape which is very important exculpatory evidence, you
25 know, with this case to be preserved. And it disappeared

1 mysteriously.

2 Q. Hold on a second, I have a video tape. This is what
3 I sent to you on February 1?

4 A. Yes, I have that.

5 Q. And there is a video tape available for your review?

6 A. That's not the one though. That's the tape of me
7 being escorted not from my cell but from the front of A3
8 division to clinic to receive medical attention and then
9 being escorted to SHU.

10 Q. So you're saying there's a tape from your cell to
11 where?

12 A. No, there's a tape that can show the assembly area
13 that I was going to use to substantiate that I didn't say
14 any words to him because the camera was on me the whole
15 time. It would see that I'm in compliance just listening to
16 him.

17 Q. Who did you ask to present that tape?

18 A. First, I asked my assistant at the hearing. The
19 assistant told me they didn't have the tape. I went to the
20 hearing and Captain Raymond who was the first tier three
21 hearing officer came and brought the tape, and there was
22 nothing on it.

23 Q. Like it was blank or was there something else on it?

24 A. It was the wrong tape. It wasn't even the tape that
25 I asked for, then they said they don't have it no more.

1 First they said they had it, then it mysteriously
2 disappeared.

3 Q. Okay. When Sergeant Young was swearing at you,
4 threatening you, was there anybody around you that could
5 hear it or who should have been able to hear it?

6 A. Well, at the inmates were about, they were about a
7 couple of rooms away like down and the officer that was
8 there, CO Verga, he was, he was standing right there, but I
9 don't know if he overheard what was going on.

10 Q. Did you ever talk to him about it?

11 A. I asked him at the hearing. I questioned him at the
12 hearing and he even said at the hearing that he didn't hear
13 me say anything. Oh, excuse me, I think I do have those
14 minutes from an article 78 I did.

15 Q. Okay. All right. So Young says he's going to have,
16 for lack of a better word, have someone teach you a lesson?

17 A. Exactly.

18 Q. Then what happened?

19 A. Then what happed next was he asked me if I understand
20 him. And he kept saying it like it was a threat, "You
21 understand me? You understand me?" And I said, "Yes," then
22 he said, "Oh, you think this is a joke? You think this is a
23 joke? You're key blocked." So I didn't say anything. And
24 the officer came who was working the company at the time and
25 said something in his ear.

1 Q. Who's this officer?

2 A. Grimaldi, he said something in his ear and he looked
3 back at me and then he told Officer Verga to escort me back
4 to my cell that I was key blocked.

5 Q. Young told Verger to take you back?

6 A. Yes.

7 Q. Did you and Verga have any conversation?

8 A. No.

9 Q. Go ahead.

10 A. On the way back to company nothing happened. No
11 threats were made.

12 Q. It was just you and Verga?

13 A. That's it. Then when I arrived at A3 division, at
14 the division, Davies was there. And he let me in, and he
15 let me in and asked me what happened. And I told him I
16 don't know what happen. The sergeant pulled me out and
17 searched me. I guess he was having a bad day and sent me to
18 my cell key blocked. And me and Davies didn't even have a
19 problem. So he sent me to my cell and said your key
20 blocked, not to my cell, but to the cell I was blocked in.

21 They sent me back to my cell, and about five or
22 eight minutes later I looked down the company and I see
23 Sergeant Young talking to CO Harris and Davies, then
24 Grimaldi comes back in from chow. Now, I can look down
25 company and see through the crack of my cell that they up

1 there at the lock box and basically the sergeant is coaching
2 them.

3 Q. You didn't hear anything?

4 A. I didn't hear anything cause I'm all the way in 38.
5 I'd be lying if I said I did. But I'm watching his body
6 language though. His body language is telling me that he's
7 pointing down this way, and I get the direction that he is
8 telling them to come to my cell and assault me.

9 Q. So he's talking to Harris, Grimaldi and Davies right
10 now?

11 A. Yes, all right now, it's kind of hard for me to talk
12 about this. This is like a real painful experience right
13 here.

14 Q. Take your time. We have as much time as you need.

15 A. This is like I was almost killed. Next thing I know,
16 the officer Grimaldi comes with a tray.

17 Q. In your cell or to it.

18 A. He comes to my cell with a tray. The cell opens up
19 and he shoves the tray in my chest.

20 Q. Now, when the doors open in your cell are you
21 supposed to be placed in a certain spot in the cell or does
22 it matter?

23 A. Well, they usually direct you, see certain blocks
24 they have feed-up hatches and you can just put the tray in
25 the slots, but in this particular division it doesn't have

1 feed-up slots. It has like just a hole through the front of
2 the door that you have to open the door.

3 Q. Yep.

4 A. But to my knowledge they give the porter the tray,
5 and the porter opens the cell, and you grab it like that,
6 but this particular day it didn't happen like that.

7 Q. So when you're in your cell you don't have to be
8 against the back wall or anything?

9 A. Well, I mean, no.

10 Q. Okay. Keep going.

11 A. That's what he said though. Well, Sergeant Young
12 said that he directed me to go stand in the back of my cell.

13 Q. But that's not a rule in general?

14 A. Well its not routine in general.

15 Q. All right.

16 A. So I backed up so he could see me. I had my hands
17 up. He came in the cell like he was passing me the tray.
18 Once I grabbed it he shoved it in my chest and punched me in
19 my face.

20 Q. Were both your hands on the tray?

21 A. Yes.

22 Q. Was he fully in the cell or part in and part out?

23 A. He was basically, he did it, the way how he did it
24 was he shoved the tray in my face, backed up out of the cell
25 and then ran back in the cell. And that's when he started

1 saying don't "F" with my sergeant. And he threw another
2 punch and I blocked it. I blocked it, and I basically told
3 him, "Stop, what are you doing?"

4 Q. Now, when he shoved the tray in your chest, did you
5 move backwards; did the force move you backwards?

6 A. No, the punch moved me backward.

7 Q. But the shove with the tray in your chest did not?

8 A. It was like a diversion. It kind of threw me off
9 because when he handed me the tray I didn't think he was
10 going to do that I didn't even think it was that serious. I
11 knew it was coming, but I didn't think it was like that.

12 Q. But you didn't stumble or anything when he pushed you
13 with the tray?

14 A. No, I backed up when he hit me when he came back in
15 the cell and hit me again, so I blocked it.

16 Q. So you dropped the tray at some point?

17 A. The tray fell. I mean I had, I had to block my face.

18 Q. Did you drop the tray when he punched you the first
19 time?

20 A. Yes.

21 Q. Okay. Go ahead.

22 A. I was shocked. I was transfixed. I didn't know he
23 was going to punch me in my face, then he started saying
24 don't "F" with my sergeant. I said, "Yo, get out my cell.
25 I don't want no problems."

1 Q. Are you still on your feet?

2 A. Yes, so he rushes me again.

3 Q. This is the third time?

4 A. Well, it's in stride, his second stride. So I didn't
5 want to hurt him so I just cuffed up, cuffed up and I laid
6 down, and they whaled on me and they jumped me.

7 Q. When you say you cuffed up, you put your forearms
8 under your head and you curled up?

9 A. Yes, I curled up to prevent injuries to my face and
10 everything, which really didn't do anything.

11 Q. So you curl up on your bed?

12 A. Yes, I was on the bed. I curled up, next thing I
13 know that's when Harris comes in the cell, and he just
14 joined the assault, starting hitting me with my hot pot,
15 broke my hot pot over my head.

16 Q. Now, once you got on your bed was Grimaldi still
17 hitting you?

18 A. Yes.

19 Q. And while Grimaldi was hitting you Harris starts
20 hitting you at the same time or did they take turns?

21 A. Yes, they were jumping me.

22 Q. Okay. Go ahead.

23 A. Then once they dragged me down to the floor Davies
24 came in.

25 Q. Other than saying "don't "F" with my sergeant" that

1 Grimaldi said, did Grimaldi or Harris say anything else
2 while they were hitting you?

3 A. I don't remember, let me see. I know they were
4 saying something, but I don't really remember.

5 Q. Were they calling for help or assistance or anything
6 like that?

7 A. No.

8 Q. Were you?

9 A. Yes.

10 Q. All right. So it's Davies that comes in now?

11 A. Yes, he comes in swinging his stick like a mad man.

12 Q. His baton?

13 A. Yes. His baton and I'm already on the floor, but I
14 look up. And at the same time I'm already in handcuffs?

15 Q. When did you get in handcuffs?

16 A. When Harris threw me on the floor.

17 Q. So Harris comes in and he hits you with the hot pot
18 and stuff right?

19 A. Right.

20 Q. Then at some point one or both of them pulled you to
21 the floor from the bed?

22 A. Well, Harris is a big guy. He's about 6'6", 6'7".

23 So you know, I'm a little guy. And he grabs me, throws me
24 on the floor which is how I sustained this knee injury, and
25 he threw me on the floor that's when he hit me with the hot

1 pot, you know. I fell completely on the floor, face down on
2 the floor.

3 Q. Flat?

4 A. I got one arm out one arm under me laying face down
5 on the floor. He grabs both my arms and puts handcuffs on
6 me.

7 Q. You're handcuffed behind your back?

8 A. Behind my back.

9 Q. Okay.

10 A. Davies enters the cell after that which is in his
11 report.

12 Q. What is Grimaldi doing while Harris is punching you?

13 A. Punching me in my eye.

14 Q. Are you face down?

15 A. Yes.

16 Q. How is he punching you then?

17 A. In the side, on the side.

18 Q. So is he on the ground too, Grimaldi?

19 A. Yes.

20 Q. Up by your face?

21 A. I guess he's on his knees, whatever, I seen him. I
22 seen him while he was doing it.

23 Q. And Harris was like on your butt or whatever?

24 A. He was sitting on my back while I was on the ground.
25 Eventually Davies came in and hit me with the stick on my

1 back.

2 Q. While Grimaldi is hitting you in your eye you saw
3 Harris come in and hit you with the baton?

4 A. Yes.

5 Q. All right. Go ahead.

6 A. He just continued his --

7 Q. Where is he hitting you?

8 A. On my back, on the back of my legs, my arm like in
9 the back not on the top of my head but on the back of it
10 which there was no indication of that because I was already
11 in full restraints.

12 Q. Were you struggling trying to defend yourself or
13 anything?

14 A. How can I defend myself if my hands are behind me.

15 Q. Well that's what I'm trying to understand. Were you
16 struggling, trying to role, trying to stand up, anything
17 like that?

18 A. Nothing.

19 Q. You were completely nonmoving? So you were face down
20 on the ground? I'm just trying to get a picture. You're
21 face down on the ground and you're motionless?

22 A. Yes.

23 Q. Okay. Go ahead.

24 A. I mean of course I move when I'm getting hit with
25 sticks and punched in the face.

1 Q. So Davies is hitting you with a baton, then what
2 happened. Take your time?

3 A. Well, I believe, without looking at my complaint that
4 after that happened, it was so long ago, it was a tragic
5 moment for me. I believe at that moment that's when the
6 other officers responded.

7 Q. What are they responding to?

8 A. I guess one of the them pulled a pin.

9 Q. How long after Grimaldi came with the tray did these
10 other officers respond?

11 A. Immediately, that's how I know it was premeditated.
12 As soon as the second punch, you can hear his feet come
13 running down the company. It was right away.

14 Q. Hold on. I guess I mean the group that came with
15 Sergeant Roach, how long after Grimaldi hit you with the
16 tray did that group come?

17 A. I'd say about ten minutes later.

18 Q. All right. But what you're trying to tell me just
19 now is that Davies's came immediately after the tray after
20 Grimaldi shoved the tray?

21 A. Harris.

22 Q. Harris. All right. So Harris came and then Davies
23 came. So Sergeant Roach shows up with who?

24 A. I don't know who he showed up with. I looked up and
25 just seen him when I looked up. I was on the floor bleeding

1 profusely from my head and my eye. And I looked up and I
2 seen him and I asked him, "Could you tell them to stop," you
3 know.

4 Q. Are they still hitting you holding you down or what?

5 A. Yeah, they holding me down and hitting me, even the
6 other officers join the attack which I can't even identify
7 except the few I didn't hear.

8 Q. Did others officers start hitting you before you
9 could talk to Sergeant Roach?

10 A. Yeah, they told me to shut-up.

11 Q. But who was hitting you like any new guys that came
12 with Roach before you asked Roach for help?

13 A. Let me look for his name. I forgot his name, Officer
14 Fernandez.

15 Q. He came as a result of what you called a pin pull?

16 A. Yes. They call it the pass system.

17 Q. What did Fernandez do?

18 A. Kick me in my eye in my face.

19 Q. Anybody else?

20 A. I can't identify anybody else, but I know it was
21 Fernandez, Corknard, C-O-R-K-N-A-R-D.

22 Q. What did he do?

23 A. Kicked me in my face and my eye.

24 Q. Anyone else, and I'm just talking about the short
25 period before you start talking to Roach.

1 A. Oh, before that prior to me talking to Roach?

2 Q. Right, you said you spoke with Roach, and everything
3 was fine with him, right?

4 A. Actually, this is while Sergeant Roach was present.
5 He was present at the time when Officer Fernandez and
6 Corknard kicked me in the face and everything.

7 Q. Okay. And that was the point when you asked him to
8 help you?

9 A. Yeah, I pleaded with him. I said, "Please tell them
10 to stop." I showed him I'm in full restraints. They beat
11 me for like a half hour on the floor.

12 Q. Did you know who Roach was prior to that minute?

13 A. I know Sergeant Roach. I know Sergeant Roach from
14 when I was there in 1999. I believe he was there in 1999.

15 Q. Did you have interaction with Grimaldi prior to this
16 day?

17 A. I don't know who he is.

18 Q. Well, Davies you knew and he left?

19 A. Yes, but I didn't know him either.

20 Q. What about Harris?

21 A. Never had a problem with any of them.

22 Q. Did you know them from your block or?

23 A. I mean, I've heard, the only one of the three I heard
24 of is Harris. I mean he has a representation for being a
25 tough guy. So of course I heard of him.

1 Q. And he's the big guy?

2 A. Yeah, he's the big guy. But I never had any
3 incidents with them because I don't really initiate problems
4 with officers I don't that.

5 Q. But you didn't have any friendly conversations with
6 these folks before?

7 A. No, because I use to work in the mess hall and that's
8 all the officers I knew was from the mess hall.

9 Q. Okay. You knew who Sergeant Roach was from the last
10 time you were there. Did you know Fernandez before this
11 date?

12 A. I didn't even know who he was.

13 Q. And what about Corknard, do you know who he was?

14 A. No.

15 Q. So how were you able to identify who was doing what
16 to you know when you were putting together your complaint?

17 A. That's easy, on that video tape, on that video tape I
18 can see those officers.

19 Q. And then you were able to match them with what had
20 happened?

21 A. Exactly I know they faces, see what I'm saying? I
22 know they faces. And once I saw their faces on the tape and
23 I said, "Okay. That's Fernandez." Like you know them, but
24 you're actually not familiar with them as far as, but that's
25 him, that's him, and once I view the video tape I identify

1 the name with the face.

2 Q. And the video tape you're talking about is the one I
3 also have with the escort video?

4 A. Yes.

5 Q. Did Sergeant Young show up at any point in time?

6 A. Yes.

7 Q. When did he show up?

8 A. He was there the whole time, but I saw him when I was
9 en route, leaving, leaving when they were taking me to the
10 clinic.

11 Q. So Young didn't put his hands on you in any fashion
12 while you were in the cell?

13 A. Yes, he kicked me in my chest.

14 Q. So he did come to your cell?

15 A. He didn't come to my cell. This happened on the way
16 out.

17 Q. I have to back you up because I don't want to get
18 confused.

19 A. All right. This is after, this is after I said all
20 that to Sergeant Young.

21 Q. Sergeant Roach?

22 A. I mean, yes, Sergeant Roach.

23 Q. After Roach shows up then what happens, does Roach
24 responds to you, your request for help?

25 A. He didn't say anything. He didn't participate, but I

1 mean, I believe he had a realistic opportunity to stop his
2 subordinates to stop assaulting me.

3 Q. How long was he there while you were being punched?

4 A. To my knowledge 15 to 20 minutes.

5 Q. 20 minutes?

6 A. Maybe 15 minutes. And on my way out --

7 Q. Okay. So you're still on the floor being kicked by
8 Fernandez and Corknard and then what happen?

9 A. Somebody said that's enough. I don't know who said
10 it or what and they lifted me up --

11 Q. Who's they?

12 A. Harris, Fernandez and Corknard which in the beginning
13 I thought was King.

14 Q. You thought Corknard was King?

15 A. Escorting me down to the clinic, while I was being
16 escorted I was being punched and kicked. I couldn't even
17 identify who it was both my eyes were shut, but I could
18 still see out of my left eye, but my right eye was so
19 swollen and bloodied because I had a gash right here
20 (indicating) so I couldn't really see who the other officers
21 were.

22 Q. Was there anybody with you other than Harris,
23 Fernandez and Corknard?

24 A. Well, Harris fell back and them two escorted me.

25 Q. The two being Harris and Corknard?

1 A. No Corknard and Fernandez.

2 Q. Were there any other officers walking along with you
3 or anything or was it just you and the three of them?

4 A. Well, Sergeant Roach I noticed when I looked back, I
5 looked back to the left and I seen Sergeant Roach and Dwayne
6 Dixon who had the video camera walking behind me.

7 Q. So who was hitting you in the face as you're being
8 escorted?

9 A. I know Fernandez was hitting me and I know Corknard
10 was hitting me to because one of them which I don't remember
11 at this time I think it was Corknard was complaining about
12 blood being splashed on his shirt. He had a lot of blood
13 from my injuries.

14 Q. And you're being escorted to the clinic and being
15 hit?

16 A. Off, while I'm being brought off the division.

17 Q. Okay.

18 A. Now, as I'm being brought off the division that's
19 when Sergeant Young kicked me in my chest and punched me in
20 my face.

21 Q. He kicked you in the chest while you're standing up?

22 A. No, see this is what they do, when they bring you
23 out, I'm handcuffed. They have you like this (indicating).

24 Q. Bent over?

25 A. Bent over, so as I'm bent over that's when he kicked

1 me in my face and kicked me in my chest.

2 Q. Where did he come from?

3 A. He was standing there the whole time. He was still
4 in the same position now, I don't know if he came down to
5 the cell. He said he did in his to/from, but I don't know
6 if he actually came down to the cell, but he actually was
7 there when I looked up. I seen him. He was standing right
8 there and he said "yeah," that's what he did, what he did on
9 the way out.

10 Q. And you're still being held by Fernandez and
11 Corknard, as well?

12 A. Yes.

13 Q. And then what happens?

14 A. They escort me downstairs and they bring me to the
15 clinic for medical treatment.

16 Q. And who shows up at the clinic with you just
17 Fernandez and Corknard?

18 A. Sergeant Roach and Dixon.

19 Q. Dixon with the camera?

20 A. Which he started once we got in the hallway. He
21 didn't start video taping until we got in the hallway.

22 Q. Do you know when he showed up?

23 A. He was there I seen him.

24 Q. How did he get there?

25 A. I don't know. I guess we're going to have to ask him

1 that. I don't know.

2 Q. How did he know to show up with a camera?

3 A. Because I guess that's procedure, that's routine.

4 Q. But he would have had to know that was happening
5 before he showed up with the camera?

6 A. I believe he was with Sergeant Roach because that's
7 who he was with the whole time.

8 Q. Okay. So you show up at the clinic then what
9 happened?

10 A. Then what happened?

11 Q. Yes.

12 A. Oh, then what happens. All right.

13 Q. Do they put you somewhere?

14 A. They put me on the wall and then they take picture of
15 all my injuries.

16 Q. Are you still handcuffed?

17 A. No, they took them off.

18 Q. When?

19 A. About 20 minutes after I was down there.

20 Q. All right. Did they have you standing around, do
21 they have you sit or what?

22 A. Standing up.

23 Q. And then they uncuffed you and put you on the wall?

24 A. Yes.

25 Q. And then what happens?

1 A. Well, the nurse was, what's her name, Georgiani. She
2 asked me what was wrong. And I reported all my injuries to
3 her.

4 Q. Had they taken your photos yet before the nurse came
5 out.

6 A. Yes.

7 Q. Do you know who took those?

8 A. C.O. Carroll.

9 Q. Carroll?

10 A. Yes.

11 Q. And then Nurse Georgiani comes out and asks, what did
12 she ask you?

13 A. She asked me what were my injuries.

14 Q. Okay.

15 A. But prior to that prior to her asking me about my
16 injuries one that was real visible was I had big gash on my
17 eye that was bleeding and that required stitches. And I had
18 one on the back of my head too. So she treated me for that
19 first or tried to treat me, whatever. They told me to wash
20 it off. I washed it off.. I used the disinfectant and
21 everything. I actually did all that myself. She didn't do
22 anything. It just kept bleeding profusely. She put three
23 butterfly stitches on it which it required real stitches. I
24 needed to go to the hospital. But she just put butterfly
25 stitches on it. And I told her it was wasn't going to hold.

1 I had blood all over my shirt my face, everything, then I
2 told her about my knee, my eye, my back, all my injuries.

3 Q. And at the point you're at the clinic and you're
4 talking to the nurse what was bothering you at that point?
5 I know you're explaining it to me, but what was wrong with
6 your knee? What did you feel on your knee?

7 A. It felt like it was broken.

8 Q. And when did you get the idea that started?

9 A. Where Harris slammed me on the floor on my knee.

10 Q. Your eye we know about, what about your back?

11 A. My back, my head --

12 Q. Your back hurt. Was it a stabbing pain, bleeding?

13 A. Excruciating pain which was inflicted by the baton.

14 Q. Upper or lower back?

15 A. Both.

16 Q. Do you have any idea when your eye started to bleed;
17 when it busted open?

18 A. I'm not exactly sure because I blanked out a few
19 times. I was losing a lot of blood. I blanked out.

20 Q. And you told Georgiani about your knee, your eye and
21 your back, anything else?

22 A. My jaw, elbow, and my neck.

23 Q. There was pain in all of these?

24 A. I had multiple -- I had several knots on my head, the
25 back of my head, gash in the back of my ear, and on my back.

1 Q. Back of your ear?

2 A. Yes.

3 Q. Anything else?

4 A. And on my back.

5 Q. Anything else?

6 A. I believe there was more, but at this time that's all
7 I remember.

8 Q. Now, did anything start bothering you in the days
9 that followed that didn't bother you when you were talking
10 to Georgiani that you didn't realize?

11 A. Well, actually I haven't reported it yet, but I don't
12 know if its too late, but my eye.

13 Q. Your right eye?

14 A. Yeah, really it's both of them, but my right eye, my
15 vision has been kind of blurry ever since that time?

16 Q. It's really red right now, is that normal?

17 A. No.

18 Q. Do you have allergies?

19 A. No, it just happens, just one eye, right?

20 Q. Yes.

21 A. Yes, that happens to my right eye sometimes.

22 Q. Does it hurt or is it only blurry?

23 A. It hurts only when I go to sleep and wake up.

24 Q. Does it have crud on it?

25 A. Yeah, like I can't even open it sometimes.

1 Q. Have you seen medical about that?

2 A. Maybe not the medical, but the optometrist. I spoke
3 to the optometrist.

4 Q. What did he say?

5 A. I never got back to him. They ran a test on me, but
6 I left Southport.

7 Q. Okay.

8 A. So I never got the result of that test.

9 Q. But you never talked to anybody at any facility about
10 this problem with your eye?

11 A. In Southport, yes.

12 Q. And that's when you went to the optometrist, that's
13 what they did?

14 A. Yes, that's what they did.

15 Q. Did they give you drops, eye drops?

16 A. They don't really give you too much like
17 over-the-counter stuff. All they do is refer you to other
18 people, and you keep going to other people.

19 Q. Now, when you told Nurse Georgiani about your
20 injuries, what happened then? What did she do if anything?

21 A. Well, she applied three butterfly stitches to my eye.
22 I explained to her they weren't going to hold and I told her
23 my knee was broke. She looked at it and didn't even touch
24 it or anything and said your knee's not broken.

25 Q. Were you standing up?

1 A. I was sitting down.

2 Q. Okay. What else, you said she didn't help you clean
3 the blood off you did it yourself?

4 A. Well, the other nurse I don't what her name is.
5 She's not in the complaint, but the other nurse assisted me
6 a little bit. I don't know what you call those things but
7 they have alcohol on it because the blood was caked up on my
8 beard and my mouth. And I really couldn't move my arms or
9 my jaw. I was trying to talk to her. I was trying to tell
10 her I couldn't get it off so she helped me take a little bit
11 of it off but the blood just kept dripping, dripping.

12 Q. Now, wasn't this the Nurse Pliense that's in the
13 complaint?

14 A. No, that wasn't her.

15 Q. So after Georgiani looked at your knee, what happened
16 next?

17 A. I was escorted to Special Housing Unit.

18 Q. By who?

19 A. I don't know the officer's name. I know one was
20 King, S. King. And I don't know who the other officer was.

21 Q. But they're not defendants in this case?

22 A. No, they are not.

23 Q. All right. And what happen when you arrived at SHU?

24 A. I'm admitted to SHU. They admitted me into SHU.
25 They escort me to the cell. I notified the officer that I

1 needed to see the nurse immediately, that I feel dizzy, need
2 to see the doc, that I feel dizzy, that my knee is broke, I
3 can't walk, and also that I need stitches.

4 Q. Did you walk to SHU?

5 A. I limped.

6 Q. But you didn't need a wheel chair?

7 A. They were holding me, yeah.

8 Q. Did they send someone over to you?

9 A. Well, it's kind of procedure in any facility you go
10 to. See, when you first have a new admission in SHU they
11 have to come the nurse, the mental health people to evaluate
12 you. Anyway so it was like, well, the nurse was coming down
13 here anyway so she'll look at you when she comes.

14 Q. So what time of day is this that you finally make it
15 to SHU?

16 A. In the afternoon. I don't even know.

17 Q. Is it before dinner?

18 A. It was before dinner.

19 Q. How long after you arrived did a nurse or medical
20 person come?

21 A. About an hour later?

22 Q. And do you know who that was?

23 A. Okay. J. Pliens wherever her name is.

24 Q. What did she do for you?

25 A. All right. At first, when she first arrived at the

1 cell she asked me my name and number. I told her everything
2 then she started going, "Well, I have to," actually she
3 wasn't professional at all. I tried to address it to her,
4 I'm bleeding profusely. I got blood all over my shirt, the
5 wound was just bleeding, the back of my head is bleeding, my
6 knee is just swollen this big (indicating). I explained to
7 her I need to go to an outside hospital or speak to a doctor
8 immediately. I feel dizzy. I'm about to blackout. "Well,
9 let me do this first and then I'll get back to you." I
10 explain to her, "No, this is important because I'm
11 bleeding." My eye, the stitches broke, the butterfly
12 stitches. They came off because so much blood was leaking
13 that they came off.

14 Q. How long after you arrived at SHU did that break?

15 A. Like a half hour. And then I explained it to her and
16 I showed it to her. I showed her my shirt. I showed her my
17 eye. I backed up; I showed her my knee. And she just
18 didn't do nothing?

19 Q. All right. So she was doing your admission basically
20 at this point like an interview?

21 A. Yes, basically.

22 Q. Was there any kind of physical itself?

23 A. No, she told me to put down for sick call, which I
24 did I put down for, emergency sick call.

25 Q. When did you do that?

1 A. Soon as I got there. Like I told you earlier, as
2 soon as I got there I told them about my complaints,
3 immediately.

4 Q. And they told you to wait for the nurse because she's
5 coming down?

6 A. Then when she came she told me I had to put down for
7 sick call which is a serious -- I'm in the cell with serious
8 injuries not just physical serious injuries.

9 Q. So she leaves without doing anything?

10 A. She leaves and then writes that I refuse treatment,
11 which I didn't.

12 Q. Did she offer to do anything for you like reapply the
13 butterfly stitches or --

14 A. Nothing.

15 Q. Take your vitals, nothing?

16 A. Nothing.

17 Q. She just took your interview and left?

18 A. She didn't even conduct the interview like what they
19 do is they say, "Drop down to your shorts, turn around, how
20 do you feel, you know, things like that. We didn't even get
21 there. Actually, I was worried I didn't want to go to
22 sleep. I had several knots on my head. My face, I don't
23 even look how I look now. My face was deformed. Everything
24 was just, my knee, everything. I wanted to see a doctor.
25 It took me about a week to see a doctor after that maybe

1 even more. I'm not sure. Eventually, I did see a doctor.

2 Q. When did you see someone from medical after Nurse
3 Pliense left. When was the next time you saw someone from
4 medical?

5 A. I don't remember. I can't even give you an exact
6 date. I can't even give you an exact date.

7 Q. Well, do the nurses make rounds in SHU?

8 A. No, just for medication and sick call.

9 Q. And you weren't taking medication?

10 A. Not yet, eventually after seeing a doctor I was put
11 on Tramadol, and I was taking pain medication for my knee.

12 Q. And you think it was about a week that you saw a
13 doctor?

14 A. Maybe about a week.

15 Q. And did you see that doctor within the SHU?

16 A. Yes.

17 Q. Do you remember who that doctor was?

18 A. Dr. Miller.

19 Q. And when you saw Dr. Miller -- was that a male or
20 female?

21 A. A male.

22 Q. What did you tell him was bothering you?

23 A. Everything, as I just explained earlier, especially I
24 put special emphasis on my eye and my knee.

25 Q. Was your eye still bleeding a week later?

1 A. No.

2 Q. Were any of your gashes bleeding a week later after
3 you saw Dr. Miller?

4 A. Excuse me, they were bleeding, but not as bad as they
5 were the first time.

6 Q. When did the eye subside with the bleeding, you said
7 it was gushing, Nurse Pliense came in. When did it stop?

8 A. Maybe, I can't even say. I applied pressure to it.
9 I had my shirt wrapped around my head tied on it and just
10 kept it on it, but it went down eventually, maybe the next
11 day the officer gave me some, I think, I don't remember his
12 name. The officer gave me a gauze pad. I put that on
13 there. Actually the officer gave it to me at the clinic so
14 I had extra gauze pads. I put that on there and I tied my
15 shirt around it again.

16 Q. Somebody gave you gauze on the 26th at the clinic
17 when it happened?

18 A. I think the officer did either at the clinic or on
19 the block. I don't remember.

20 Q. In that week after it happened before you saw Dr.
21 Miller were you interacting with any of the SHU officers?

22 A. Yes.

23 Q. And what were they saying?

24 A. They wasn't really trying to comply with what I was
25 asking them.

1 Q. Well, there's sick call in SHU, right?

2 A. Yes.

3 Q. And you were putting in for that?

4 A. That's one of the ways how I got to see the doctor by
5 putting in for a sick call.

6 Q. But you didn't see a nurse prior to Dr. Miller
7 coming?

8 A. Yes, I did, just not her.

9 Q. But you did see another nurse?

10 A. Yes.

11 Q. When did you first see a nurse?

12 A. I don't remember, but it was during that week. It
13 was a few days before I saw Dr. Miller that's how I was able
14 to see Dr. Miller. Actually, no, actually, when I saw Dr.
15 Miller that same day is when I saw the nurse and the nurse
16 went and conveyed my complaints to him and he came down
17 personally to the box, blew me out the cell, and checked me
18 out right down there.

19 Q. Okay. So the nurse sees you as a result of your sick
20 call slip and the nurse goes immediately and gets Dr.
21 Miller?

22 A. Yes.

23 Q. Other than that nurse had you seen any other nurse
24 besides Nurse Pliense?

25 A. No.

1 Q. How many times did you put in for sick call that
2 week?

3 A. I don't remember.

4 Q. And how do you put in for sick call at the SHU?

5 A. Drop a slip, put a slip at the door.

6 Q. And they get picked up daily or something?

7 A. Yes.

8 Q. So what were you telling them about your problems and
9 what would they say?

10 A. Well, I wouldn't call it interaction. They bring me
11 my tray --

12 Q. Okay.

13 A. And it was real difficult for me to eat at times. I
14 may have eaten maybe one or two chows a day maybe one. It
15 was real difficult for me to walk to the cell to get the
16 tray.

17 Q. How do they check on you in the SHU do they just look
18 in?

19 A. A light stays on all the time and they can check on
20 you see if you're moving that's it.

21 Q. And were you able to lodge any complaints with them
22 during this time?

23 A. Yes, I would tell them I need emergency sick call.
24 I'm bleeding, and my knee is broke. And I need to see the
25 doctor.

1 Q. What did they say?

2 A. They said, all right. But I never saw anybody. What
3 happen was, which was good for me, I have a loving family
4 that loves me and supports me. And when they came to see me
5 they notified my lawyers. And they called up and that's how
6 everything got to moving.

7 Q. When did your family come to see you? When was that?

8 A. I would say maybe a week maybe before. I don't know
9 the exact date.

10 Q. Within a week though?

11 A. I know it was August, maybe August 2.

12 Q. Who was it that visited?

13 A. My wife and my mother at that time.

14 Q. And you were able to participate in a visit with
15 them?

16 A. Yes, it was difficult for me to get down, but, you
17 know, I got down there.

18 Q. And they called your lawyer?

19 A. Yeah, they made some phone calls and they called up
20 there, not here, but they called the facility where I was at
21 and they came to see me.

22 Q. The nurse did?

23 A. The doctor.

24 Q. But I thought you said the nurse got the doctor to
25 come and see you?

1 A. Yes, she was a part of it, but the doctor told me he
2 got a call from my family.

3 Q. Does your wife have the same last name as you?

4 A. Yes.

5 Q. What's her name?

6 A. Nikeia, N-I-K-E-I-A.

7 Q. And what about your mom?

8 A. Alva, same last name.

9 Q. And what did Dr. Miller do when he saw you? Did he
10 give you an x-ray for your knee?

11 A. He ordered the x-ray, he ordered that, I get ice for
12 my knee, and he fixed up my stitches.

13 Q. Did he puts in real stitches?

14 A. No, it was too late at that time so he put in
15 butterfly stitches, and checked my head out.

16 Q. Was your back still hurting at this point?

17 A. Yeah, he put me on Tramadol two times a day after
18 that.

19 Q. What's that, pain medicine?

20 A. Pain killer.

21 Q. Okay?

22 A. And that was basically it. And then I went for x-ray
23 a couple of days later.

24 Q. And what did that show if anything?

25 A. Well, according to them it showed a joint effusion

1 and -- you should have it, what they said it was -- left
2 knee demonstrates a small joint effusion.

3 Q. Okay. Did Dr. Miller tell you what that meant?

4 A. No, he didn't, but I ascertained that on my own.

5 Q. What did you find out?

6 A. Small joint effusion? It actually means that there's
7 water in my knee. And it shows that there was some damage
8 that was done, but the damage is not that significant enough
9 to be a fracture, but as time went along I learned that I
10 also have a popliteal cyst in the back of my knee and
11 chondromalacia through MRI.

12 Q. So since that x-ray you've had more done on your
13 knee?

14 A. Yes.

15 Q. After the x-ray's done what does Dr. Miller do?

16 A. That's it. That's the last contact I had with him
17 ever since the x-ray.

18 Q. Did he give you crutches, put a brace on it,
19 anything?

20 A. Oh, he gave me a brace for it.

21 Q. He did?

22 A. At Southport, I was going to physical therapy and
23 everything.

24 Q. Okay. But while you were at --

25 A. Cocksackie?

1 Q. Cocksackie, they didn't give you a brace or physical
2 therapy or anything like that? Well, you were almost done,
3 right? You were almost out of Cocksackie at that point?

4 A. I told you I was only there after the hearing for
5 about a week.

6 Q. How long after the x-rays did you leave Cocksackie?

7 A. About two weeks after that.

8 Q. Okay. And when did you learn what the x-rays showed?

9 A. Till I got to Southport.

10 Q. Okay. You didn't learn what the x-rays showed until
11 you got to Southport?

12 A. Yes.

13 Q. Did you see Dr. Miller again after that first time?

14 A. No.

15 Q. Did you make any other medical complaints after you
16 saw Dr. Miller while you were still at Cocksackie?

17 A. Yes.

18 Q. Who did you make those too?

19 A. Sick call.

20 Q. Okay. But did you see anyone?

21 A. I don't remember who that was. I didn't actually go
22 out anywhere. They were giving me medication for it.

23 Q. Did you see the nurse again before you left
24 Cocksackie?

25 A. I saw the nurse everyday after that maybe about a

1 week before I left the nurse would come to my cell twice a
2 day to give me my medication.

3 Q. And during those med runs did you make any complaints
4 to the nurse about anything that was bothering you?

5 A. Yes, my knee. I told them they needed to raise the
6 dosage. I still feel my knee. It was broke.

7 Q. And what did the nurse say in response to that?

8 A. The only assessment that she could have made was by
9 her looking at it. There was something wrong, like I said,
10 even after a week it was still swollen.

11 Q. Were you still putting ice on it?

12 A. Maybe a couple of days, but once the ice ran out they
13 stopped.

14 Q. But when you were making the complaints did she make
15 an appointment with the doctor; did she do anything else?

16 A. That's what she said, she said, "I'll make an
17 appointment with the doctor." But a lot of this is chicken
18 scratch. I don't understand that type of writing.

19 Q. But you didn't see the doctor again before you left?

20 A. No.

21 Q. Now, since you left Cocksackie, what kind of treatment
22 have you gotten for your knee?

23 A. I'm currently taking medication for it.

24 Q. Still pain medicine?

25 A. Yes.

1 Q. Does it still hurt?

2 A. Yes, on occasion it does.

3 Q. How often?

4 A. I can't give you an exact --

5 Q. Does it hurt every day, every week?

6 A. Yes, it hurts every day. Like they said, I have
7 chondromalacia.

8 Q. What's that?

9 A. Chondromalacia is like when your knee cap scraps
10 under your knee. Its like its been damaged. So every time
11 you move it a certain way, it crunches and it scrapes. And
12 I also have a cyst behind my knee, and you know a cyst can
13 grow and get large and become a problem. It can grow and
14 become cancerous or whatever.

15 Q. Did anybody ever tell you what caused that cyst?

16 A. My injury.

17 Q. Who told you that?

18 A. My doctor.

19 Q. Which doctor?

20 A. The physical therapist doctor.

21 Q. At Southport?

22 A. Yes, because prior to that I didn't have a cyst on my
23 body at all, on my knee, no where.

24 Q. How do you know that?

25 A. Because I take a physical exam every five years.

1 I've been incarcerated 13 years already. I'm constantly on
2 top of my health.

3 Q. Have you had any other x-rays or MRIs on your knee
4 prior to this incident that they can compare it to?

5 A. On my knee?

6 Q. Yes.

7 A. Not exactly.

8 Q. Have you ever had any leg, knee, or ankle injury
9 prior to this injury?

10 A. No.

11 Q. All right. Now, did anybody ever try to tell you,
12 I'm not even going to try say it, but the knee cap thing how
13 that was caused?

14 A. Yes, it was damaged by falling, it can happen by
15 slamming, sports, anything of that nature.

16 Q. And who told you that the physical therapist?

17 A. Yes.

18 Q. And you said you got an MRI of your knee?

19 A. Yes.

20 Q. When was that?

21 A. 10/12/2010.

22 Q. Have you been to any outside medical people for any
23 of the injuries you alleged were sustained that day?

24 A. Just what I said. You mean for the MRI?

25 Q. Well, for anything?

1 A. Yes.

2 Q. Elmira?

3 A. Yes.

4 Q. What's the name of Elmira Imaging?

5 A. Open MRI of Elmira.

6 Q. Anywhere else, any outside places, outside hospitals,
7 outside doctors?

8 A. Well, that's just the outside hospital.

9 Q. The Elmira one?

10 A. Yes.

11 Q. Have you been to Albany Med or anything like that?

12 A. Well, it's just an MRI place. They just take MRI,
13 x-ray, stuff like that.

14 Q. But that's all you haven't seen? Any other
15 specialist, orthopedist, or anything?

16 A. Just the physical therapist I went to for a couple
17 maybe eight weeks of physical therapy for my knee.

18 Q. Did the doctor at Southport ever make a referral for
19 you to be seen by any kind specialist, orthopedist or
20 anything like that?

21 A. Yes.

22 Q. Did that happen?

23 A. Not yet.

24 Q. So you're supposed to see an orthopedist at Great
25 Meadows?

1 A. I don't know what they're doing. I know I was
2 transferred here. This is unexpected. I didn't expect to
3 come here.

4 Q. Have you seen medical here at Great Meadows for your
5 knee?

6 A. Yes.

7 Q. What have they said?

8 A. I have yet to even receive my medication yet, but I
9 did, when I first arrived at the facility when they ask you,
10 "Do you have any injuries?" "Yes, my knee is bothering me.
11 My knee is still hurting. I need my medication." Recently
12 I was on bedrest sick so I haven't had the opportunity to
13 complain about it.

14 Q. Now, has your knee been bothering more than when you
15 were on the medication?

16 A. Yes.

17 Q. Now, what about, I don't see a scar, do you have a
18 scar on your eye?

19 A. Yes, it's very small right now because I apply cocoa
20 butter.

21 Q. Any other scars from that day on your head or your --

22 A. My brain.

23 Q. Right, I mean on the outside. Any physical scars
24 that you know of that exist from this?

25 A. Not really I mean I think I have -- the doctor said I

1 have carpel tunnel. I mean, I can't, sometimes my hands
2 just shake. I don't know if that's from the handcuffs being
3 too tight.

4 Q. What about your back, have you gotten any treatment
5 for that; does that still hurt?

6 A. It's off and on but it's not a major --

7 Q. So really your major concern is your knee that's the
8 ongoing concern that you have?

9 A. What you mean outside of this complaint?

10 Q. Well, no, from anything you allege happened as a
11 result of that day that you're still getting treatment for?

12 A. Well, my injuries are injuries. I was injured in
13 several places. That's my concern, all my injuries.

14 Q. Things you're still getting treatment for, I mean,
15 that's what I meant to say, so your knee, you're still
16 getting treatment?

17 A. Yes.

18 Q. Anything else you're still seeking treatment for?

19 A. Not at this time, no.

20 Q. Do your wife and mom still come to visit up here? I
21 guess I shouldn't say still have they seen you since that
22 day we talk about?

23 A. Yes.

24 Q. When was the most recent time any of them have seen
25 you?

1 A. Two weeks ago.

2 Q. Was that your wife or mom or both?

3 A. My mom.

4 Q. Who was officer Southard, S-O-U-T-H-A-R-D?

5 A. That's the officer that was stricken, right?

6 Q. I don't know, yeah, who was he though do you remember
7 why you put him on there in the beginning?

8 A. He was one of the ones -- what I did was, I could
9 have amended it and put him back in there, but there's
10 already too many defendants. He's one of the ones I noticed
11 so I put him in the complaint, but I didn't actually write
12 down what he did so this is why I think they gave me the
13 opportunity to amend it, but I didn't amend it I just let
14 him go.

15 Q. Have you ever talked to any of the defendants in this
16 case since July 26, 2009? Like did you see any of them
17 again?

18 A. Yes.

19 Q. Who did you see?

20 A. I'd rather not say, but I know that one of them is
21 here. And I don't even know why I was sent to this facility.
22 And one of them is in this facility. I mean that's not my
23 job to really tell you who it is.

24 Q. I just want to know have you talked to this person
25 about the incident because, I mean, if you've talked to any

1 of the defendants I don't want to find out later that
2 there's some kind of problem. So you're saying one of the
3 defendants works here know?

4 A. Yes.

5 Q. You've seen him or her?

6 A. Him.

7 Q. So it's not a nurse?

8 A. No.

9 Q. Has this person talked to you about the case?

10 A. No.

11 Q. Have they had a conversation with you at all?

12 A. No.

13 Q. So have you ever talked to any of these defendants
14 about the incident after July 26, so even while you were
15 still in Cocksackie or any other way?

16 A. No.

17 Q. Other than your mom and wife and lawyer have you ever
18 told anyone else what happened that day?

19 A. I mean it's documented in the court, all right. In
20 the state court.

21 Q. In your article 78, you mean?

22 A. Well, I didn't really go into, well, yes, I did
23 because I had to give a statement of fact and everything so
24 the State Court Chemung County Court.

25 Q. County or supreme?

1 A. Supreme court.

2 Q. That --

3 A. Grievances, Albany, IG.

4 Q. Was the Chemung Supreme Court case involving any of
5 these defendants or was it just for disciplinary stuff?

6 A. Well, it was about the disciplinary. It started the
7 whole thing.

8 Q. The hearing and such?

9 A. That started the whole thing.

10 Q. What do you mean it started the whole thing?

11 A. I mean the two misbehavior reports.

12 Q. That stemmed from this, you got two misbehavior
13 reports as a result of this incident?

14 A. Yeah, but I think this stems from that if it wasn't
15 for that this never would have happened.

16 Q. That's what I want to know about I don't understand
17 what that means. So you had a misbehavior report by some of
18 these people?

19 A. Well, two of the defendants are the two officers of
20 the first misbehavior reports.

21 Q. Okay. And when were they issued?

22 A. That what this whole incident stemmed from. If there
23 wasn't no misbehavior reports this incident wouldn't be we
24 wouldn't be doing this right now because they allege that an
25 incident happened that didn't happen.

1 Q. Okay. But they didn't beat you up because you had
2 already had a misbehavior report. Misbehavior reports was
3 issued based on the same event that we're talking about
4 today?

5 A. Yes.

6 Q. I thought you were saying that the assault happened
7 because of the hearing process, but that's not true the
8 hearing process happened after the assault?

9 A. Yes.

10 Q. I just thought I missed something huge?

11 A. All right.

12 Q. So other than discussing it in the hearing process in
13 the article 78 in the grievance process, your mom, your
14 lawyer, and your wife, have you ever talked about it to
15 anyone else, any other inmates, any administrators, DOCS
16 people, Cocksackie people?

17 A. Well, me personally, no. I'm sure my family has
18 talked to congress people and certain other people that's
19 concerned about my safety while I'm in here, but as far as
20 in detail I don't think so.

21 Q. Have you ever heard from anybody on the outside
22 concerned about your safety for instance if your mom or wife
23 talked to a congress person did you get letters or phone
24 calls or visits or anyone?

25 A. Is that relevant to what --

1 Q. Well, I'll tell you, the reason I'm asking is --

2 A. I'm feeling uncomfortable now.

3 Q. I need to know of any time you told, I'll call it the
4 story because I need to make sure it's always been
5 consistent and stuff, so if you told anyone what happened,
6 technically, I can depose those people to make sure you're
7 telling the same story. So that's why it's relevant. I'm
8 not trying to interfere with your privacy or anything I just
9 want to know who you told about this incident and who have
10 you had contact with?

11 A. Well, actually like I said, IG, grievance.

12 Q. There was an IG investigation?

13 A. Yes, but I don't know what happened with it that's
14 about it as far as my family -- they don't know the whole
15 story they just know that --

16 Q. You were hurt?

17 A. And they worried about my safety and they're just
18 trying to make sure I don't get killed up here?

19 Q. Were you interviewed by IG?

20 A. Yes.

21 Q. Was this while you were still at Cocksackie?

22 A. Yes.

23 Q. So it went quickly then?

24 A. Yes.

25 Q. Did anybody at Cocksackie ever talk to you about the

1 fact that IG had been there to talk to you? Did an officer
2 say, "Why was IG here?" Something like that?

3 A. Not to my recollection, no.

4 Q. What about any of the defendants, do you remember any
5 of them saying anything to you about it?

6 A. The only one that ever said anything to me after the
7 situation was Sergeant Roach and he asked me what happened.

8 Q. Asked you how it started and you said he was there
9 for a good portion of it?

10 A. Yes.

11 Q. What did you say to him?

12 A. It's in his report you should have that.

13 Q. So you mean what he was doing in his investigation?

14 A. As far as afterward he didn't talk to me I haven't
15 spoken to any of them.

16 Q. I think I'm done. Have you ever had a deposition
17 done before?

18 A. Like this?

19 Q. With a court reporter and lawyer talking to you?

20 A. Yes.

21 Q. What will happen is I will gets a copy of the
22 transcript and I'll send it to you with a sheet where you
23 can fix any mistakes. Its called an ERRATA sheet and then
24 you'll sign it and send it back to me, and you'll get a full
25 copy and that will happen in the next month or so.

1 (Whereupon, the proceedings in the above-entitled
2 matter were concluded at 12:52 p.m.)
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ERRATA SHEET

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3

I, CHRISTOPHER IRIZARRY, have read the transcript of my
testimony and would like the following changes:

4

PAGE	LINE	CHANGE FROM:	CHANGE TO:
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21 Subscribed and sworn to before me this _____ day of

22 _____, 20____.

23

24 _____
Notary Public Signature

25

1 STATE OF NEW YORK)
2) SS
3 COUNTY OF)
4

5 I, Christopher Irizarry, have read the foregoing
6 record of my testimony taken at the time and place noted in
7 the heading hereof, and I do hereby acknowledge it to be a
8 true and correct transcript of same.

9

10

Christopher Irizarry

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13 DATED:

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21 Sworn to before me this _____

22 day of _____, 20____

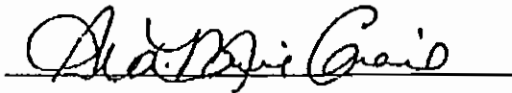
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24 _____
Notary Public

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C E R T I F I C A T I O N

I, ANNA-MARIE COMERIE, Shorthand Reporter and
Notary Public in and for the State of New York, do hereby
CERTIFY that the foregoing record taken by me at the time
and place noted in the heading hereof is a true and accurate
transcript of same, to the best of my ability and belief.



ANNA-MARIE COMERIE

Dated: April 14, 2011

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EXHIBIT

B

New York State Department of Correctional Services
COXSACKIE CORRECTIONAL FACILITY
WILLIAM R. LAPE
Superintendent

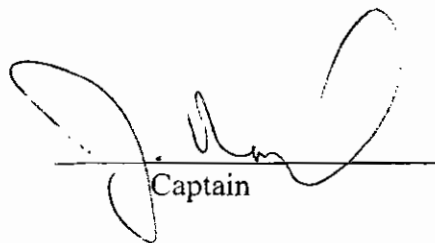
MEMORANDUM

TO: Superintendent William R. Lape
FROM: Daniel F. Martuscello, D.S.S.
DATE: July 31, 2009
SUBJECT: U.I. #09-0065 (CCC# 210360) / U.O.F. #09-0039
Assault on Staff – Security / Staff Use of Weapons-Baton

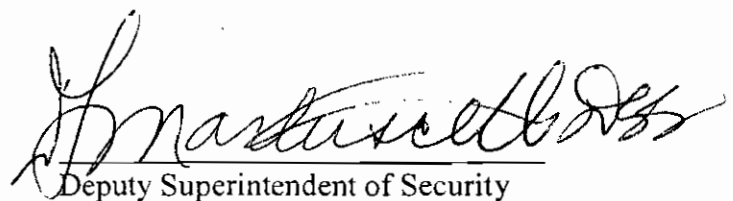
After reviewing the attached U.I. / U.O.F. paperwork, I feel that staff acted appropriately.

The force used was within departmental guidelines.

Approval:



Captain



Deputy Superintendent of Security

DM/slc

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
08/04/09 11:46 AM

COXSACKIE FAC CODE 130 FAC LOG# 090065 CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL' OA 03 38S

TELEPHONE DATE 07/26/09 TIME 03:14 PM

PERSON CALLING LT J. HUFF
PERSON RECEIVING CAPT JEREMY KNAPP

REPORT DATE 07/31/09 PERSON REPORTING EMP SHERRIE L. CISLER

USE OF FORCE YES WEAPON USED YES

ASSAULT (02) 03 STAFF USE OF WEAPONS (20) 05
ON STAFF - SECURITY BATON

DESCRIPTION:

ON 7-26-09 AT APPROXIMATELY 11:41 AM AS OFFICER GRIMALDI OPENED INMATE IRIZARRY'S 99A0222 CELL GATE A3 38, TO GIVE INMATE IRIZARRY A KEEPLOCK TRAY, INMATE IRIZARRY PUNCHED OFFICER GRIMALDI IN THE FACE WITH HIS CLOSED RIGHT FIST. OFFICER GRIMALDI ATTEMPTED TO DEFEND HIMSELF USING BODY HOLDS, INMATE IRIZARRY CONTINUED TO PUNCH OFFICER GRIMALDI WITH BOTH FIST STRIKING OFFICER GRIMALDI IN THE HEAD AND FACE. OFFICER DAVIES ACTIVATED HIS PAS AND RESPONDED TO A3 38 CELL. OFFICER DAVIES THEN ATTEMPTED TO USE BODY HOLDS ON INMATE IRIZARRY GIVING INMATE IRIZARRY ORDERS TO STOP. INMATE IRIZARRY FAILED TO COMPLY. INMATE IRIZARRY THEN STRUCK OFFICER DAVIES IN THE RIGHT EYE WITH A CLOSED RIGHT FIST, OFFICER DAVIES PUNCHED INMATE IRIZARRY WITH BOTH FISTS 5-6 TIMES IN THE HEAD AND UPPER BODY. INMATE IRIZARRY CONTINUED TO PUNCH AND KICK. OFFICER DAVIES THEN STRUCK INMATE IRIZARRY 3 TO 4 TIMES WITH A BATON IN THE UPPER BODY. OFFICER HARRIS PUNCHED IRIZARRY 6-7 TIMES IN THE HEAD/FACE WITH BOTH FISTS, MECHANICAL RESTRAINTS WERE APPLIED ON IRIZARRY BY OFFICER HARRIS AS INMATE COMPLIED.

EVENTS CAUSING:

ON THE ABOVE DATE AND TIME, AS C.O. GRIMALDI OPENED INMATE IRIZARRY'S CELL GATE (A-3-38), INMATE IRIZARRY PUNCHED C.O. GRIMALDI IN THE FACE WITH HIS CLOSED RIGHT FIST.

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
08/04/09 11:46 AM

COXSACKIE

FAC CODE 130

FAC LOG# 090065

CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL

0A 03 38S

USE OF FORCE YES

WEAPON USED YES

ACTION TAKEN:

INMATE IRIZARRY ESCORTED TO MEDICAL, EXAMINED BY MEDICAL INJURIES NOTED
BRUISE RIGHT SIDE OF FOREHEAD, 3/8" LACERATION EDGE OF RIGHT EYE,
SUPERFICIAL CUT BEHIND LEFT EAR, ABRASION RIGHT FOREARM. COMPLAINS OF PAIN
HEAD AND BACK. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] PHOTOS TAKEN OF INMATE AND
INVOLVED STAFF. INMATE IRIZARRY PLACED IN SHU 28 CELL WITHOUT INCIDENT.
PHOTOS AND PAPERWORK SUBMITTED. SGT. ROACH RESPONDED TO INCIDENT AND IS
INVESTIGATING. NOTIFICATIONS: OD STWD. STICKLES, DSS MARTUSCELLO, SUPT.
LAPE, CCC CAPT. SIGNOR, NYSP BCI. OFFICER DAVIES BATON PLACED IN EVIDENCE
BY SGT. ROACH.

MEDICAL REPORT:

REFER TO UOF #09-0065 FOR INMATE MEDICAL REPORT.

PROPERTY DAMAGE:

N/A

NOTIFICATION (FAMILY):

N/A

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
08/04/09 11:46 AM

COXSACKIE FAC CODE 130 FAC LOG# 090065 CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL 0A 03 38S

USE OF FORCE YES WEAPON USED YES

NOTIFICATION (POLICE/OTHER):CCC-CAPT. SIGNOR, OD-STEWARD STICKLES, DSS MARTUSCELLO, SUPT. LAPE,
NYSB BCI.

INMATE INFORMATION:

IRIZARRY, CHRISTOPHER 99A0222 DOB 04/29/1978 ETHNIC - HISPANIC

<u>GEN INCIDENT</u>	<u>- SPECIFIC INCIDENT</u>	<u>ROLE</u>	<u>WEAPON</u>	<u>FORCE</u>	<u>INJURY</u>
ASSAULT	- ON STAFF-SEC	PERP	BODY USE	BATON	LACERATION
STP WEAPONS	- BATON	PERP	BODY USE		

SPT WILLIAM LAPE
SUPERINTENDENT08/04/09
DATE

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Sgt Roach

FROM: C.O. S. Carkner

DATE: 7/26/09

SUBJECT: UI# 090065 uof# 09-039

On the above time at approximately 11:45 Am I
C.O. Carkner escorted inmate Irizzary 99A0222 from
A3 to medical. During the escort I was exposed to
blood from inmate Irizzary. I had blood on both arms
and my shirt.

Respectfully submitted

C.O. S. Carkner

C.O. S. Carkner

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: 7-3 WATCH COMMANDER

FROM: SGT G.W. RONCHI

DATE: 7/26/09

SUBJECT: IRIZARRY C. 99A0222 UOF # 09-039
UI # 09-0065

PAGE 1 OF 3

Sir
ON 7/26/09 AT APPROXIMATELY 11:40 AM I RESPONDED TO A MAJOR ALARM ACTIVATED ON A13. UPON MY ARRIVAL I TOOK CUSTODY OF INMATE IRIZARRY 99A0222 FROM SGT YUNG WHO HAD RESPONDED FROM A-1 DIVISION. I ORDERED THE OFFICERS INVOLVED IN THE INCIDENT (CO'S GRIMALDI, HARRIS, DAVIES) TO REPORT TO MEDICAL FOR EVALUATION/TREATMENT. INMATE IRIZARRY WAS THEN MOVED FROM A3 TO THE COXSACKIE CLINIC BY OFFICERS FERNANDEZ AND CARKNARD AND MYSELF. OFFICER D. DIXSON MET US IN THE NORTH CORRIDOR WITH THE HAND HELD VIDEO AND REMAINED WITH THE INMATE THEREAFTER.

IRIZARRY WAS SEEN BY RN. GIORGIANNI ALL INJURIES NOTED AND TREATMENT PROVIDED FOR SMALL CUT NEAR HIS RIGHT EYE. OFFICER CARROLL T. TOOK USE OF FORCE PHOTOS. THESE PROCEDURES WERE COMPLETED UNDER THE SUPERVISION OF SGT. PAULIN WHO ESCORTED IRIZARRY TO THE SPECIAL HUSBING UNIT THEREAFTER.

I QUESTIONED IRIZARRY UPON HIS ARRIVAL AT THE CLINIC. IRIZARRY STATED THAT DURING THE CHOW RUN HE WAS ORDERED OUT OF HIS DIVISION LINE BY THE SERGEANT IN THE ASSEMBLY (SGT. YUNG) IRIZARRY STATED THAT HE WAS FRISKED AND THEN RETURNED TO HIS CELL (C.O. VERGA). IRIZARRY CONTINUED BY STATING THAT WHEN A3 RETURNED FROM CHOW AN OFFICER (GRIMALDI) BROUGHT A FEED-UP TRAY TO HIS CELL. WHEN HIS CELL WAS OPENED IRIZARRY ALLEGED THAT THIS OFFICER BEGAN TO STRIKE HIM AND WAS THEN JOINED BY THE OTHER OFFICERS.

CONTINUED PAGE 2

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: 7-3 WATCH COMMANDER

FROM: GW RONAKH SGT

DATE: 7/26/09

SUBJECT: UI# 09-0065

PAGE 2 OF 3

AS STATED BY THE OFFICERS INVOLVED IN THE INCIDENT, INMATE IRIZARRY WAS RETURNED FROM THE CHOW RUN AND SECURED IN HIS CELL, HE DID NOT DISPLAY ANY SIGN OF AGGITATION NOR MAKE ANY THREATS TOWARD STAFF, WHEN A-3 RETURNED AND SECURED FROM CHOW. OFFICER GRIMALDI (A3) BROUGHT A FEED-UP TRAY TO IRIZARRY'S CELL. AS PER PROCEDURE OFFICER GRIMALDI ORDERED IRIZARRY TO THE BACK OF HIS CELL, WHEN OFFICER DAVIES (A3 BLK) OPENED THE CELL OF IRIZARRY, OFFICER GRIMALDI ATTEMPTED TO PLACE THE FEED-UP TRAY IN THE CELL. INMATE IRIZARRY TURNED AND LUNGED AT OFFICER GRIMALDI STRIKING HIM IN THE HEAD WITH CLOSED FISTS. IRIZARRY STRUCK OFFICER GRIMALDI NUMEROUS TIMES (APPROX 7-8) AS THE OFFICER ATTEMPTED TO PLACE A BODY HOLD ON THE INMATE TO STOP THE ASSAULT. OFFICER GRIMALDI FELL TO THE FLOOR DURING THE ASSAULT DROPPING THE TRAY AND ITS CONTENTS.

OFFICER M. HARRIS (B3) WAS ON THE B3 TIER AND HEARD THE DISTURBANCE IN A3 AND RESPONDED TO IT. OFFICER HARRIS ENTERED THE CELL AND OBSERVED INMATE IRIZARRY STRIKING OFFICER GRIMALDI. THE INMATE REFUSING ORDERS TO STOP WAS THEN STRUCK WITH A CLOSED FISTS BY OFFICER HARRIS. OFFICER HARRIS DELIVERED MULTIPLE BLOWS TO THE HEAD AND FACE OF THE INMATE.

OFFICER DAVIES (A3 BLK) OBSERVED THE INCIDENT FROM THE LOCK BOX AREA. HE SECURED THE LOCK BOX, ACTIVATED THE MAJOR ALARM AND RESPONDED TO THE CELL ONLY MOMENTS BEHIND OFFICER HARRIS. OFFICER DAVIES ALSO EXCHANGED PUNCHES WITH INMATE IRIZARRY. DAVIES DELIVERED MULTIPLE BLOWS TO THE HEAD AND UPPER BODY OF THE INMATE, DURING THIS EXCHANGE OFFICER DAVIES WAS STRUCK AT LEAST ONE TIME ON THE RIGHT SIDE OF HIS FACE.

BOTH OFFICERS (HARRIS / DAVIES) EXCHANGED BLOWS WITH THE COMBATIVE INMATE WHO CONTINUED TO PUNCH AND KICK AT ALL THREE OFFICERS. ALL IN THIS INCIDENT WERE HAMPERED IN THEIR EFFORTS DUE TO THE FOOD WHICH HAD BEEN DROPPED ON THE CELL FLOOR.

CONTINUED PAGE 3

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: 7-3-~~31~~ WATCH COMMANDER

FROM: GW NOACH SGT

DATE: 7/26/09

SUBJECT: WI # 090065

PAGE 3 OF 3

OFFICER HARRIS WAS FINALLY ABLE TO TAKE INMATE IRIZARRY IN A BODY HOLD AND TAKE HIM TO THE FLOOR OF THE CELL. IRIZARRY LANDED FACE DOWN ON THE CELL FLOOR, AND CONTINUED TO KICK AND FLAIL HIS ARMS AT THE OFFICERS.

OFFICER DAVIES WHILE ON THE FLOOR DREW HIS BATON AND USING A JABBING MOTION DELIVERED SEVERAL BLOWS TO THE UPPER AREA OF THE INMATES BACK, IN ORDER TO GAIN COMPLIANCE AND STOP HIS VIOLENT BEHAVIOR.

RESPONSE TEAM MEMBERS ARRIVED AND PROVIDED RESTRAINTS WHICH WERE APPLIED BY OFFICER HARRIS

RESPECTFULLY

[Signature] SGT

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY
COXSACKIE, NEW YORK 12051-0200
(518) 731-2781

BRIAN S. FISCHER
COMMISSONER

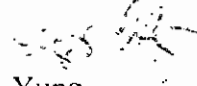
WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Sgt. G. Roach
FROM: Sgt. J. Yung
DATE: 07/26/09
SUBJ: Irizarry, 99A0222

On the above date at approximately 11:35 am I heard a watch commander response to zone 3. I was at A1 when this came over the two-way radio system. I went up to A3 to assist you. When I got to A3-38 cell I observed Officer Davies and M. Harris holding Inmate Irizarry face first to the ground. The Inmate was half in and half out of his cell. Officer M. Harris requested a set of mechanical restraints. Once he got a set, he applied them to Inmate Irizarry without further incident. You then arrived on the scene. Once the Inmate was secured, I immediately called for the hand held camera. Once you were on the scene, you took over. I then left the area and went to medical with Officers Grimaldi, Davies, and M. Harris.

Respectfully submitted,


Sgt. J. Yung

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Sgt. Roach

FROM: S. Grimaldi c.o.

DATE: 7/26/09

SUBJECT: Use of force Inmate Irizzary 99A0222

On 7/26/09 at approx 11:41am I c.o. S. Grimaldi was in front of A3-38 cell to give Inmate Irizzary 99A0222 a keep lock feed up tray. I gave Inmate Irizzary a direct order to Step to the back of the cell. He complied. I then told c.o. Davies to open 38 cell. When the cell door opened I went to place the tray on the floor inside the cell. At that time I observed Inmate Irizzary lunge towards me and punched me in my head and face area several times. As I went to the ground Inmate Irizzary continued to punch me in my head and face area. I then Attempted to restrain the Inmate. The Inmate remained combative. Response team arrived. [REDACTED]

Respectfully

S. Grimaldi c.o.

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Sgt. Roach

FROM: C.O. M. Harris

DATE: 7/26/04

SUBJECT: use of force 04-039 U.I. 040065

While taking the Rec. list for B-3 division I
C.O. M. Harris heard a loud disturbance coming
from A-3 division I responded to A3-38 cell. I
I observed inmate chazzary, C 9940222 striking
C.O. Brumaldi with closed fists. I then ordered
this inmate to stop he refused and continued
to strike C.O. Brumaldi. I then struck this
inmate with two closed fists. I struck him
multiple times in the head and face area. This
inmate continued to strike C.O. Brumaldi. I then
grabbed him with my hands by his shirt I
pulled him face down to the ground. The response
team showed up and I was able to apply
mechanical restraints on him.

Respectfully submitted
C.O. M. Harris

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Sgt Reach

FROM: CO R DAVIES

DATE: July 26, 2009

SUBJECT: UOF # 09-039 U.I. # 09-0065

On the above date at approximately 11:40AM I was operating the A3 lockbox for CO Grimaldi who was delivering a Foodup tray to 38 cell Iritary, C 99A0222. When I opened the cell I heard a commotion from the cell. I immediately secured the lockbox, activated my P.A.S., and ran to Officer Grimaldi's aid. Upon arriving at the cell I observed the inmate repeatedly punching and kicking at CO Grimaldi and CO Harris who also responded. I grabbed hold of the inmates upper body, attempting to restrain him, the inmate broke free from my hold and struck me with a closed fist in my right side of my face. Using both hands I began striking the inmate with closed fist multiple times to the head and upper body as the inmate continued to fight violently with us. I drew my baton and applied several softening jabs to the inmates upper body in attempt to gain compliance. The response team arrived and the inmate was placed in mechanical restraints.

Respectfully Submitted

CO R DAVIES


CO R DAVIES

INMATE MISBEHAVIOR REPORT ♦ INFORME DE MAL COMPORTAMIENTO DEL RECLUSO

NAME OF INMATE (Last, First) ♦ NOMBRE DEL RECLUSO (Apellido, Nombre)	NO. ♦ NUM.	HOUSING LOCATION ♦ CELDA
Trizary, Christopher	99A 0222	A-3-38
LOCATION OF INCIDENT ♦ LUGAR DEL INCIDENTE	INCIDENT DATE ♦ FECHA	INCIDENT TIME ♦ HORA
A-3-38 cell	7/26/09	approx 11:41am

RULE VIOLATION(S) • VIOLACIÓN/ES	
106.10 Direct order	107.10 Interference
100.11 assault on staff	104.11 violent conduct
104.13 Creating a disturbance	
DESCRIPTION OF INCIDENT • DESCRIPCIÓN DEL INCIDENTE	

On 7/26/09 at approx 11:41 Am I co S. Grimaldi was standing outside A-3-38 cell to give Inmate Trizzary 99A 0222 h's keeplock feed-up tray. I ordered the Inmate to the back of the cell, The Inmate complied. I then told co. Davies to open A-3-38, when the cell opened, I went to place the tray on the floor. Inside the cell, At that time I observed Inmate Trizzary lunge towards me and punched me several times in the head and face area. The Inmate was given several direct orders to stop ~~resisting~~³⁶, he failed to comply. Inmate Trizzary remained combative until officers Harris and Davies and my self gained control. officer Harris Applied restraints when the response team arrived. I then Reported to medical.

REPORT DATE • FECHA 7/26/09	REPORTED BY • NOMBRE DE LA PERSONA QUE HACE EL INFORME S. Grimaldi	SIGNATURE • FIRMA 	TITLE • TÍTULO CO
ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any) ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay)		SIGNATURES: FIRMAS	
		1. _____	
		3. _____	

NOTE: Fold back Page 2 on dotted line before completing below.

3. WERE OTHERS INMATES INVOLVED? YES ☐ NO ☒ IF YES, GIVE NAME & #

7. AT THE TIME OF THIS INCIDENT, WAS INMATE UNDER PRIOR CONFINEMENT/RESTRICTION? YES ☐ NO ☒ OR

AS A RESULT OF THIS INCIDENT, WAS INMATE CONFINED/RESTRICTED? YES ☒ NO ☐

3. WAS INMATE, MOVED TO ANOTHER HOUSING UNIT? YES ☒ NO ☐

IF YES, (a) CURRENT HOUSING UNIT SHU-28 (b) AUTHORIZED BY _____

3. WAS PHYSICAL FORCE USED? YES ☒ NO ☐ (IF YES, FILE FORM 2104)

AREA SUPERVISOR ENDORSEMENT


COXSACKIE CORRECTIONAL FACILITY
Coxsackie, N.Y.
Interdepartmental Communication

TO: Sgt. Roach
FROM: C.O. Fernandez
DATE: 7/26/09
SUBJECT: UI # 09 0065
UOF # 09-039

Sir:

On the above date at approximately 11:45, I escorted Inmate Irizzary
D.I.N. 99A0222, from A3 to Medical.
This escort was completed without incident.

Respectfully submitted,

C.O. C Fernandez
C. 

COXSACKIE CORRECTIONAL FACILITY
Coxsackie, N.Y.
Interdepartmental Communication

TO: *Sgt. Roach*

FROM: *C.O. S. Carkner*

DATE: *7/26/09*

SUBJECT: *Escort* *UI # 090065*
UCF # 09 - 039

Sir:

On the above date at approximately *11:*, I escorted Inmate *Iri 224y*
D.I.N. *99A0222*, from *A3* to *medical*.
This escort was completed without incident.

Respectfully submitted,

C.O. S. Carkner
C.O. S. Carkner

COXSACKIE CORRECTIONAL FACILITY
Coxsackie, N.Y.
Interdepartmental Communication

TO: Sgt Pavlin

FROM: C.O. J. Southard

DATE: July 26, 2009

SUBJECT: Inmate Irizarry 99A0222

Sir:

On the above date at approximately 12³⁵ PM, I escorted Inmate Irizarry
D.I.N. 99A0222, from Clinic to S.H.O.
This escort was completed without incident.

Respectfully submitted,

C.O. J. Southard



COXSACKIE CORRECTIONAL FACILITY
Coxsackie, N.Y.
Interdepartmental Communication

TO: Sgt. Paula

FROM: C.O. S. King

DATE: 7-26-09

SUBJECT: Inmate - IRI Zarry 99A0222

Sir:

On the above date at approximately 12:35pm I escorted Inmate Irizarry
D.I.N. 99A0222, from Clinic to SHU.
This escort was completed without incident.

Respectfully submitted,

C.O. S. King
S. King

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM


TO: Sgt. Roach

FROM: C.O. C. Fernandez

DATE: 7/26/09

SUBJECT: UI # 090065 UOF # 09-039

Sir, On the above date and approximately 11:45Am I C.O. Fernandez escorted Inmate Irizzary #99A0222 from A³ to medical. During the escort I was exposed to blood from Inmate Irizzary. I had blood on both arms and shirt.

Respectfully Submitted,
C.O. C. 
C. Fernandez

USE OF FORCE REPORT

FACILITY COXSACKIE	Incident Date: 7/26/09	Facility Use of Force Log # 09-039
Incident Location A3/38CELL	Incident Time: 11:40 AM	If Unusual Incident, CCC Log # 090065

PART A - REPORT OF INCIDENT

INMATE INVOLVED	Name	DIN	Cell/Cube Location	Role Code*	
IRIZARRY, C.	99A 0222	A3/38	03	01 Bystander 02 Participant 03 Perpetrator 04 Suspect 05 Victim 06 Witness	
STAFF INVOLVED	Name	Title			
1.	GRIMALDI	C.O.			
2.	HARRIS, M.	C.O.			
3.	DAVIES	C.O.			
4.					

DESCRIBE EVENTS LEADING UP TO THE APPLICATION OF FORCE

**OFFICER GRIMALDI ASSAULTED BY INMATE
IRIZARRY DURING KEEPLOCK FEED-UP ON A3
VI# 09-0065**

TYPE OF FORCE USED **01 04** 01 Baton 02 Body Hold 03 Chemical Agents 04 Mechanical Restraint 05 Use of Firearms 06 Shield 99 Other

DESCRIBE THE ACTUAL FORCE USED (If chemical agents are used, indicate who authorized use. If inmate is injured, attach photographs.)

**OFFICER GRIMALDI AFTER BEING STRUCK, ATTEMPTS TO GRAB INMATE IN BODY HOLD TO PREVENT FURTHER ASSAULT BY INMATE
RESPONDING OFFICER HARRIS ENTERS CELL AND STRIKES INMATE WITH CLOSED FIST BLOWS TO HEAD/FACE OF INMATE, NUMEROUS STRIKES TO INMATE USING BOTH HANDS.
OFFICER HARRIS THEN USING BODY HOLD WITH BOTH HANDS AROUND COLLAR AREA TAKES INMATE TO FLOOR AND HOLDS HIM.
RESPONDING OFFICER DAVIES ENTERS CELL AND STRIKES INMATE WITH CLOSED FIST BLOWS TO HEAD AND UPPER BODY, BATON USED BY OFFICER DAVIES, SEVERAL TAPS WITH BATON TO UPPER-BACK AREA OF INMATE.
OFFICER HARRIS APPLIES MECHANICAL RESTRAINTS BEHIND BACK OF INMATE.**

G.W. Roach

REPORTER - Name

Signature

CCRP. Sgt

Title

7/26/09

Date

Attachment C

Form Z104.1 ADD (9/98)

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

Rev. December 1994, 4004

USE OF FORCE REPORT - PART B - ADDENDUM

FACILITY <i>Catskill</i>	Date & Time of Incident <i>7/26/09 1143 am</i>	Facility Use of Force Log # <div style="border: 1px solid black; width: 40px; height: 15px; display: inline-block;"></div> <div style="border: 1px solid black; width: 40px; height: 15px; display: inline-block;"></div>
INMATE NAME <i>FRIZARY Christopher</i>	DIN <i>99A0222</i>	Cell Location <i>A3-38</i>
PHYSICAL EXAMINATION/TREATMENT - DETAIL		
EXAMINER'S NAME AND TITLE <i>K. Giorgianni RN</i>		Date & Time of Examination <i>7/26/09 12⁰⁰ p</i>
<p>#1 black & blue area (R) forehead. Red and discolored area back of head (L) side, cut to outer edge. (R) eye approx 3/8" long. Superficial cut behind (L) ear. (L) scapula area red. Several red marks going across upper arm above elbow (back of arm). (L) forearm has an abrasion in back. I/M C/O joint discomfort. C/O sore neck and back. I/M able to dress self with good ROM, when talking, did not open mouth fully. I/M allowed to wash blood off. Required nursing assistance with dried blood for better vision of skin. Did appear to be slightly stiff with head movement. Treatment required to (R) side eye area. Area cleaned with antibiotic soap & H₂O. 3 steri-strips applied. Doc & notes issued. <i>Right + oriented x 5</i></p> <p><i>K. Giorgianni RN 7/26/09</i></p>		
EXAMINER'S SIGNATURE AND DATE		

Dist: Original - Superintendent

Copy - Medical record file of inmate involved

USE OF FORCE REPORT (cont'd)

There are _____ other
reports filed under this
Use of Force Log #

Facility <i>Chenango</i>	Date & Time of Incident <i>7/26/09 11:43 am</i>	Facility Use of Force Log # <i>09-039</i>
Inmate Name <i>Rigony, Christopher</i>	DIN <i>99AC232</i>	If Unusual Incident, CCC Log # <i>090065</i>

Part B - Physical Examination / Treatment Report

Examiner's Name & Title *K Giorgianni RN* Date & Time of Examination *7/26/09 12³⁰ p*

Medical Report (Indicate date & time of examination, describe extent of any injuries, and describe treatment provided)

7/26/09 12:30 p Down to photo assessment. Black & blue (R) forehead, Red and
discolored area back of head (D) side (refer to diagram) Cut to outer edge (R) eye.
approx 3/8" long. Superficial cut behind (L) ear. (L) scapula - area red. Several red
marks going across (L) upper arm above elbow (back of arm). (R) forearm has small
abrasion on back. I/M c/o pain discomfort. C/O sore neck and back. I/M
able to dress self with good ROM while dressing. When talking, not open
mouth fully. I/M cleaned the wash blood off. Nurse required assistance with
dried blood for better visual for injuries. Did appear to be slightly stiff with
moving head forward. TX required to (R) outer eye area around. Area cleaned with
antibacterial soap + H₂O. 3 sterile steri strips applied. Ace +
Tegicini RN 7/26/09 matrix applied to I/M I/M alert & oriented x 3

Part C - Review and Evaluation by Superintendent

Superintendent's Signature and Date

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

INMATE INJURY REPORT

Facility <u>Catskill</u>	Date of injury <u>7/26/09</u>	Time of injury <u>1143pm</u>	Place of injury <u>A3</u>
Inmate name <u>Chizary, Christopher</u>	DIN# <u>99A 0222</u>	Locking location <u>A3-35</u>	

What was inmate doing when injured?

Unknown

Cause of injury?

Use of F

Inmate's statement:

My pain hurts, my teeth are loose too. My (R) eye feels like its going to pop out. My head is throbbing. My shoulders, my neck, my knees are hurting. Back pain, sharp in middle of my back.

C. L. L...

Inmate's Signature

Date

Witnesses

Reporting Employee

Title

FACILITY HEALTH SERVICES REPORT

Date injury reported:

7/26/09

Time: AM/PM

12N

Nature of Injury:

Black & blue area (R) side of forehead. (L) side of back of head (L) side. Cut approx 3/4"

Long outer edge of (R) eye. Several red marks back of (L) upper arm, stress on back of (R) forearm. ROM

OK while dressing. Did appear to be slightly stiff with head movement. Did not fully

Services Provided: ☒ First Aid ☒ Medical Treatment open mouth when speaking. Alert & oriented x 3

I/M allowed to wash face & arms. (R) eye area (R) nose with antibacterial soap & H₂O

3 narrow strip strips applied. Ice & motrin raised

Was inmate admitted to facility infirmary?

yes ☐ no ☒

Outside hospital?

yes ☐ no ☒

If yes, where?

Name and title of person furnishing treatment at facility:

Signature


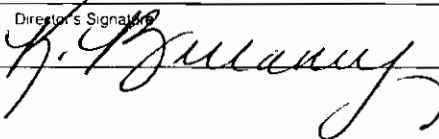
[Signature]

Title

[Signature]

EXHIBIT

C

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p>INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE</p>	Grievance Number CX-15319-09	Desig./Code I/49	Date Filed 8/3/09
	Facility Coxsackie Correctional Facility		
	Title of Grievance Staff Assault		
	Director's Signature 		Date 10/21/09

10/21/09

GRIEVANT'S REQUEST UNANIMOUSLY DENIED WITH CLARIFICATION

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied with clarification to the extent that the matter was investigated and the issue of the complaint has been found to be without merit. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that the facility administration has conducted a proper investigation, and that referenced staff have gone on record to deny the grievant's allegation of assault. CORC notes that the grievant was involved in an appropriately documented Use of Force and Unusual Incident, and that he received prompt medical attention. Contrary to the grievant's assertions, CORC has not been presented with sufficient evidence to substantiate any malfeasance by staff.

It is noted that the grievant received a misbehavior report, the facts and circumstances of which were reviewable both at the disciplinary proceeding and upon appeal in accordance with 7 NYCRR, Chapter V. CORC notes that the grievant was found guilty of assault on staff, violent conduct, creating a disturbance, interference, harassment, refusing a direct order, and movement violation.

CORC notes that Directive #4040, Section 701.1, states, in part, that the grievance program is not intended to support an adversary process.

With respect to the grievant's appeal, CORC notes that the grievant was interviewed by Lieutenant H... regarding the instant complaint.

CORC notes that the grievant has been transferred.


JA/dz



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

BRIAN FISCHER
COMMISSIONER

MEMORANDUM

TO: Superintendent William Lape, Cossackie Correctional Facility
FROM: Karen Bellamy, Director, Inmate Grievance Program 
DATE: October 21, 2009
SUBJ.: CORC Decision: CX- 15319-09

The attached decision is forwarded to you for action.

CORC notes that the grievant, C. Irizarry, 99A0222, alleged that Officer R. Davies III assaulted him on 7/26/09. The officer was interviewed by Lieutenant Huff and denied the grievant's allegations, however, a written response is required in accordance with the department's staff conduct investigation procedures.

CORC requests a copy of his written statement upon his return to duty.

This decision requires a statement of compliance and/or remedial action by your office/administration. Attach copies of any relevant documentation (order, reports, etc.). Please reply within 30 days, unless otherwise indicated.

KRB/

Attachment

CC: Grievance File - CX-15319-09
Supervisor, IGP - Edward Killar, Cossackie CF

ENDORSEMENT:

☐ The following specific action has been/is being taken:

☐ See attached documentation implementing the CORC decision.

Signed: _____ Date: _____

(Superintendent/Division Head)

COXSACKIE CORRECTIONAL FACILITY

CASE HISTORY AND RECORD

GRIEVANCE NO: **CX-15319-09**

NAME: **Irizarry, C.**

DIN NO: **99A0222**

TITLE: **Allegations of staff assault**

CODE: **49**

INSTITUTIONAL/DEPARTMENTAL: **I**

DATE FILED: **8/03/09**

IGRC DATE: **NONE**

SUPERINTENDENT DATE: **9/15/09**

APPEAL DATE: **9/23/09**

INVESTIGATION:

IGRC INVESTIGATION DATE:

FACILITY POLICY:

CAPTAIN DATE: **9/08/09**

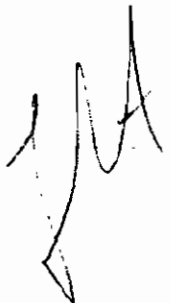
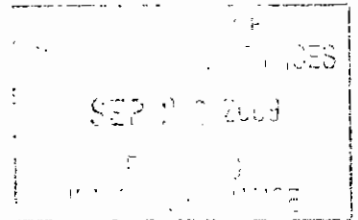
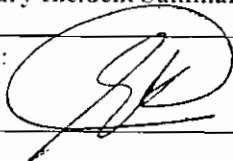
SUPERVISOR DATE: **9/05/09, 8/25/09**

EMPLOYEE DATE: **8/31/09, 8/30/09, 8/31/09**

PRIOR C.O.R.C.:

OTHER: **Copy of Disciplinary Incident Summary**

I.G.P. SUPERVISORS SIGNATURE:



STATE OF NEW YORK
COXSACKIE CORRECTIONAL FACILITY
CASE AND HISTORY

GRIEVANT NAME: Irizarry, C.

DIN#99A0222

GRIEVANCE NO: CX-15319-09

TITLE: Allegations of staff assault

DATE FILED: 8/03/09

GRIEVANCE CODE: 49

GRIEVANCE: Description of Problem: On the above date I was assaulted and almost killed by C.O. Steven A. Grimaldi, Robert A. Davies III, Mark A. Harris and C.O. King, while in route to chow I had words with Sgt. T. Young and as a result I was kecplocked. When C.O. Grimaldi brought a K.L. tray to the cell I was in at the time A-3-38 he entered and began to punch me in my head and face saying "don't fuck with my Sgt" shortly after C.O. Davies and Harris entered the cell and began punching me in my face and head C.O. Mark A. Harris grabbed my plastic hot pot and began to beat me repeatedly in my head with it while C.O. Davies and Grimaldi held me down on the floor face down. This is how I got all the superficial cuts behind my head and ears. I did not throw one punch I made several attempts to submit to the officers but they kept punching me and kicking me also hitting me with baton's. C.O. Harris is responsible for my leg being broken because he took it and twisted it back. I heard it snap. Once I was cuffed several other C.O.'s came and kicked me and punched me in my head and face. The only 2 officers I noticed in addition to the first 3 who assaulted me were C.O. King and Hernandez who took me out of the cell and brought me to the clinic. C.O. King punched me in my face several times while calling me a piece of shit ass hole. His partner Fernandez was angry at him because everytime he punched me my blood would splash on Fernandez shirt sleeves. While leaving the company Sgt. Young kicked me in my chest while handcuff note: most of the attack was when I was in handcuffs already restrained. Once an inmate is in mechanical restraints there is no justifiable reason to hit the inmate with closed fist's or batons if he is not resisting.

ACTION REQUESTED: That this complaint is fully investigated. That these C.O.'s be fired if iuvestigation proves my complaint to be true. that these C.O.'s be held responsible for all of my injuries physical, aud mental.

I.G.R.C. RESPONSE: NONE

SUPERINTENDENT'S RESPONSE: Staff denies all allegations of assaulting the grievant. The grievant was interviewed by a Lieutenant and provided no witnesses or additional information to his claims. The grievant was found guilty at a TierIII hearing for his actions on 7/26/09, including staff assault. The grievance is denied.

APPEAL STATEMENT: I was never interviewed by anyone regarding this complaint, being found guilty at a tier III hearing doesn't have any thing to do with the fact that I was assaulted by staff.



STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
ALBANY, NY 12226

KAREN BELLAMY
DIRECTOR
ROUTING SLIP

To: Karen R Bellamy

From: Karen Bellamy
Director

Date: 11/23/2009

Inmate: Christopher Irizarry 99A0222
Coxsackie

Re: Action Letter - CX-15319-09

Please circulate and review.

TO: R. Jones
J. Dennis
S. English
J. Hale
C. Lindquist
R. English
J. Antonelli
T. Carroll

RS
Jue
SR
JH
RE
JA
TC

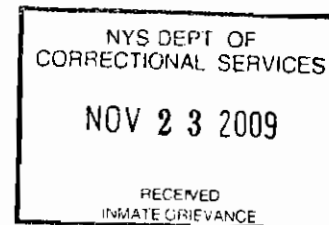
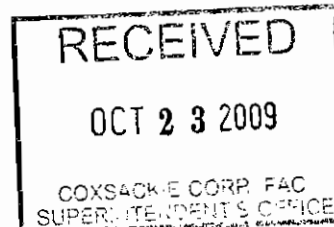
Enclosure

20091123-110900-DCZ



BRIAN FISCHER
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050



MEMORANDUM

TO: Superintendent William Lape, Cossackie Correctional Facility
FROM: Karen Bellamy, Director, Inmate Grievance Program *KB*
DATE: October 21, 2009
SUBJ.: CORC Decision: CX- 15319-09

The attached decision is forwarded to you for action.

CORC notes that the grievant, C. Irizarry, 99A0222, alleged that Officer R. Davies III assaulted him on 7/26/09. The officer was interviewed by Lieutenant Huff and denied the grievant's allegations, however, a written response is required in accordance with the department's staff conduct investigation procedures.

CORC requests a copy of his written statement upon his return to duty.

This decision requires a statement of compliance and/or remedial action by your office/administration. Attach copies of any relevant documentation (order, reports, etc.). Please reply within 30 days, unless otherwise indicated.

KRB/

Attachment

CC: Grievance File - CX-15319-09
Supervisor, IGP - Edward Killar, Cossackie CF

ENDORSEMENT:

☐ The following specific action has been/is being taken:

As requested, please find the written statement from
Officer R. Davies.

☐ See attached documentation implementing the CORC decision.

Signed: *Daniel F. Martuscello* Date: 11/20/09
Daniel F. Martuscello, Act. Supt.
(Superintendent/Division Head)

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY
WILLIAM R. LAPE
Superintendent

MEMORANDUM

TO: Lt Huff

FROM: CO R Davies


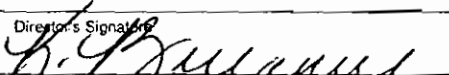
DATE: Nov 18, 2009

SUBJECT: Grievance # CX-15319-09

On July 26, 2009 I, CO R. Davies, did respond to
A incident involving inmate Irizarry 99A0222 and
I did use force on the inmate as documented. At
no time did I assault this inmate.

Respectfully Submitted

CO R Davies

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p>INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE</p>	Grievance Number CX-15319-09	Desig./Code I/49	Date Filed 8/3/09
	Facility Coxsackie Correctional Facility		
	Title of Grievance Staff Assault		
	Director's Signature 		Date 10/21/09

10/21/09

GRIEVANT'S REQUEST UNANIMOUSLY DENIED WITH CLARIFICATION

Upon full hearing of the facts and circumstances in the instant case, the action requested herein is hereby denied with clarification to the extent that the matter was investigated and the issue of the complaint has been found to be without merit. CORC upholds the determination of the Superintendent for the reasons stated.

CORC notes that the facility administration has conducted a proper investigation, and that referenced staff have gone on record to deny the grievant's allegation of assault. CORC notes that the grievant was involved in an appropriately documented Use of Force and Unusual Incident, and that he received prompt medical attention. Contrary to the grievant's assertions, CORC has not been presented with sufficient evidence to substantiate any malfeasance by staff.

It is noted that the grievant received a misbehavior report, the facts and circumstances of which were reviewable both at the disciplinary proceeding and upon appeal in accordance with 7 NYCRR, Chapter V. CORC notes that the grievant was found guilty of assault on staff, violent conduct, creating a disturbance, interference, harassment, refusing a direct order, and movement violation.

CORC notes that Directive #4040, Section 701.1, states, in part, that the grievance program is not intended to support an adversary process.

With respect to the grievant's appeal, CORC notes that the grievant was interviewed by Lieutenant H... regarding the instant complaint.

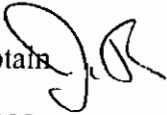
CORC notes that the grievant has been transferred.

JA/dz

**NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY**

William R. Lape
SUPERINTENDENT

MEMORANDUM

TO: IGRC – ED KILLAR
FROM: J. Raymond, Captain 
DATE: November 19, 2009
SUBJECT: CORC CX-15319-09 / IRIZARRY, C. / 99A0222

As requested by CORC, attached is a written statement from C.O. Davies concerning the above mentioned grievance.

cc:File

LISTING OF CASES BEING CLOSED

Check carefully. The program will let you make corrections.

Record#	grievance	lastname	closed
190	CX-15319-09	IRIZARRY	11/30/2009

Number closed =

1

INMATE GRIEVANCE COMPLAINT

PG 1

(49)

AUG 28 2009

Grievance No.

CX-15319-09

Coxsackie

CORRECTIONAL FACILITY

Name Chris TrizaryDate 7-26-09Dept. No. 9940222 Housing Unit SHU 28Program X AM X PM

(Please Print or Type - This form must be filed within 21 calendar days of Grievance Incident) *

Description of Problem: (Please make as brief as pos) ON THE ABOVE DATE I WAS ASSAULTED

AND ALMOST KILLED BY C.O.'S STEVEN A GRIMALDI, ROBERT J DAVIES III, MARK
HARRIS AND C.O. S. KING. WHILE ON ROUTE TO CHOW I HAD WORDS WITH SGT
YUNG AND AS A RESULT I WAS KEEPOCKED. WHEN C.O. GRIMALDI BROUGHT A K.L. TRAY
THE CELL I WAS IN AT THE TIME 4-3-35 HE ENTERED AND BEGAN TO PUNCH
ME IN MY HEAD AND FACE SAYING "DON'T FUCK WITH MY SET" SHORTLY AFTER C.O. DAVIES
AND HARRIS ENTERED THE CELL AND BEGAN PUNCHING ME IN MY FACE AND HEAD →

Grievant
SignatureChris Trizary

Grievance Clerk

Date:

AUG 28 2009

Advisor Requested ☐ YES ☒ NO

Who: _____

Action requested by inmate: THAT THIS COMPLAINT IS FULLY INVESTIGATED, THAT

THESE C.O.'S BE FIRED IF INVESTIGATION PROVES MY COMPLAINT TO BE TRUE, THAT THESE
C.O.'S BE HELD RESPONSIBLE FOR ALL OF MY INJURIES PHYSICAL AND MENTAL

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant
Signature

Date:

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

2.C File

Complaint CONT (PG 2) GRIEVANCE

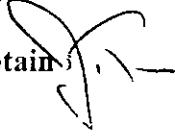
C.O MARK-A. HARRIS Grabbed my Plastic Hot Pot and began to beat me Repeatedly in my head with it while C.O Davies and Grimaldi held me down on the Floor Face down. This is How I Got All The Superficial Cuts behind my head and ears. I did NOT Throw one punch I made several attempts to Submit to the officers but They Kept Punching me and Kicking me Also hitting me with batons. C.O Harris is Responsible For my Leg being broken because he Took it and twisted it back. I heard it SNAP. ONCE I WAS hand Cuffed Several other C.O's Came and Kicked me and Punched me in my head and face. The only 2 officers I Noticed in addition to the first 3 who assaulted me were C.O King And Fernandez who Took me out The Cell and Brought me To The Clinic. C.O King Punched me in my face Several Times while Calling me A Piece of shit Ass hole. His partner Fernandez WAS Angry At him because EveryTime he punched me my Blood Would splash on Fernandez Shirt Sleeves. While leaving the Company SGT T. yung Kicked me in my chest while hand cuffed NOTE: most of The attack WAS when I WAS in hand cuffs Already Restained. ONCE an INMATE is in mechanical Restraints there is no Justifiable Reason to hit the Inmate with closed fist's or batons IF he is not Resisting.

C.C. File

**NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY**

William R. Lape
SUPERINTENDENT

MEMORANDUM

TO: Ed Killar - IGRC
FROM: J. Raymond, Captain 
DATE: October 9, 2009
SUBJECT: Grievance – CORC CX 15319-09 – IRIZARRY, C. 99A0222

As requested by CORC, attached is a written statement from C. O. Gripaldi regarding the abovementioned grievance. C.O. Davies is out on comp and will obtain a written statement from him upon his return to work.

cc: File

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES

COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Lt. Huff

FROM: S. Grimaldi C.O.

DATE: 9/7/09

SUBJ: Inmate Irizarry 99A 0222 Grievance

Sir

At no time did I C.O. S. Grimaldi act in an unprofessional manner. I did not assault Inmate Irizarry. At no time did I say "don't fuck with my set." On 7/26/09 I was assaulted by Inmate Irizarry, I attempted to use body holds to gain control of Inmate Irizarry.

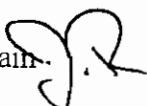
Respectfully

C.O. S. Grimaldi *Shil*

NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

William R. Lape
SUPERINTENDENT

MEMORANDUM

TO: Ed Killar - IGRC
FROM: J. Raymond, Captain. 
DATE: 9/8/09
SUBJECT: CX-15319-09 Irizarry, C. 99A0222

Our investigation of the above grievance has been completed. Because of the reason stated in the investigation, I recommend the grievance be denied.

cc: File

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

COXSACKIE, NEW YORK 12051-0200
(518) 731-2781

BRIAN S. FISCHER
COMMISSIONER

WILLIAM R. LAPE
SUPERINTENDENT

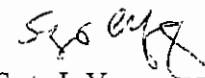
MEMORANDUM

TO: Lt. J. Huff
FROM: Sgt. J. Yung
DATE: 08/25/09
SUBJ: Inmate Izrizarry, C 99A0222 complaint CX 15319-09

Sir,

This is in response to a complaint written by the above Inmate where he alleges that I kicked him in the chest after he assaulted staff. At no time did I strike or kick or hit this inmate in any way. I was not present when he assaulted staff on the day of 7/26/09. I did in fact write this Inmate a misbehavior report that resulted him being keeplocked on this date. The only involvement I had with the incident that took place was escort the two officers that were assaulted by this inmate to the facility clinic. Sgt. Roach was the supervisor who supervised the escort of this inmate to the facility clinic. When I arrived to assist Sgt. Roach, this inmate was already in mechanical restraints and the situation was under control. I did not witness any staff assault or hurt this inmate in any way. I believe this inmate is writing this complaint against me as a means of retaliation against me for keeplocking him and writing misbehavior report on him. This complaint is totally false. Please also note that I am Sgt. J. Yung, not Sgt. T. Yung as he wrote.

Respectfully submitted,


Sgt. J. Yung

COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Lt. Huff

FROM: CO S. King

DATE: 8-30-09

SUBJ: C. Irizarry 99A0222

On the date of 7-26-09 I did escort Inmate Irizarry. He walked on his own from A-block to Clinic, and then Clinic to SHU. At no time did I or did I see anyone assault Inmate Irizarry at anytime. I wasnt present when Inmate Irizarry was taken from his cell.

respectfully

S. King CO

S. King

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PM

COXSACKIE FAC CODE 130 FAC LOG# 090065 CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL 0A 03 38S

TELEPHONE DATE 07/26/09 TIME 03:14 PM

PERSON CALLING LT J. HUFF
PERSON RECEIVING CAPT JEREMY KNAPP

REPORT DATE 07/31/09 PERSON REPORTING EMP SHERRIE L. CISLER

USE OF FORCE YES WEAPON USED YES

ASSAULT (02) 03 STAFF USE OF WEAPONS (20) 05
ON STAFF - SECURITY BATON

DESCRIPTION:

ON 7-26-09 AT APPROXIMATELY 11:41 AM AS OFFICER GRIMALDI OPENED INMATE IRIZARRY'S 99A0222 CELL GATE A3 38, TO GIVE INMATE IRIZARRY A KEEPLOCK TRAY, INMATE IRIZARRY PUNCHED OFFICER GRIMALDI IN THE FACE WITH HIS CLOSED RIGHT FIST. OFFICER GRIMALDI ATTEMPTED TO DEFEND HIMSELF USING BODY HOLDS, INMATE IRIZARRY CONTINUED TO PUNCH OFFICER GRIMALDI WITH BOTH FIST STRIKING OFFICER GRIMALDI IN THE HEAD AND FACE. OFFICER DAVIES ACTIVATED HIS PAS AND RESPONDED TO A3 38 CELL. OFFICER DAVIES THEN ATTEMPTED TO USE BODY HOLDS ON INMATE IRIZARRY GIVING INMATE IRIZARRY ORDERS TO STOP. INMATE IRIZARRY FAILED TO COMPLY. INMATE IRIZARRY THEN STRUCK OFFICER DAVIES IN THE RIGHT EYE WITH A CLOSED RIGHT FIST, OFFICER DAVIES PUNCHED INMATE IRIZARRY WITH BOTH FISTS 5-6 TIMES IN THE HEAD AND UPPER BODY. INMATE IRIZARRY CONTINUED TO PUNCH AND KICK. OFFICER DAVIES THEN STRUCK INMATE IRIZARRY 3 TO 4 TIMES WITH A BATON IN THE UPPER BODY. OFFICER HARRIS PUNCHED IRIZARRY 6-7 TIMES IN THE HEAD/FACE WITH BOTH FISTS, MECHANICAL RESTRAINTS WERE APPLIED ON IRIZARRY BY OFFICER HARRIS AS INMATE COMPLIED.

EVENTS CAUSING:

ON THE ABOVE DATE AND TIME, AS C.O. GRIMALDI OPENED INMATE IRIZARRY'S CELL GATE (A-3-38), INMATE IRIZARRY PUNCHED C.O. GRIMALDI IN THE FACE WITH HIS CLOSED RIGHT FIST.

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PM

COXSACKIE

FAC CODE 130

FAC LOG# 090065

CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL

0A 03 38S

USE OF FORCE YES

WEAPON USED YES

ACTION TAKEN:

INMATE IRIZARRY ESCORTED TO MEDICAL, EXAMINED BY MEDICAL INJURIES NOTED
BRUISE RIGHT SIDE OF FOREHEAD, 3/8" LACERATION EDGE OF RIGHT EYE,
SUPERFICIAL CUT BEHIND LEFT EAR, ABRASION RIGHT FOREARM.COMPLAINS OF PAIN
HEAD AND BACK.CO DAVIES EXAMINED BY MEDICAL, SMALL LACERATION AND BRUISING
RIGHT EYE. DAVIES RELIEVED OF DUTY, FOLLOWUP WITH AMCH EMERGENCY ROOM.
OFFICER GRIMALDI EXAMINED BY MEDICAL, BRUISE RIGHT EYE, COMPLAINS OF PAIN
LEFT ELBOW, LEFT SIDE OF FACE. RELIEVED OF DUTY TO FOLLOWUP WITH DOCTOR.
OFFICER HARRIS EXAMINED BY MEDICAL, COMPLAINS OF PAIN RIGHT THUMB,
LACERATION LEFT KNUCKLES. REMAINED ON DUTY. PHOTOS TAKEN OF INMATE AND
INVOLVED STAFF. INMATE IRIZARRY PLACED IN SHU 28 CELL WITHOUT INCIDENT.
PHOTOS AND PAPERWORK SUBMITTED. SGT. ROACH RESPONDED TO INCIDENT AND IS
INVESTIGATING. NOTIFICATIONS: OD STWD. STICKLE'S,DSS MARTUSCELLO, SUPT.
LAPE, CCC CAPT. SIGNOR, NYSP BCI. OFFICER DAVIES BATON PLACED IN EVIDENCE
BY SGT. ROACH.

MEDICAL REPORT:

REFER TO UOF #09-0065 FOR INMATE MEDICAL REPORT.

PROPERTY DAMAGE:

N/A

NOTIFICATION (FAMILY):

N/A

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PM

COXSACKIE FAC CODE 130 FAC LOG# 090065 CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL 0A 03 38S

USE OF FORCE YES WEAPON USED YES

NOTIFICATION (POLICE/OTHER):CCC-CAPT. SIGNOR, OD-STEWARD STICKLES, DSS MARTUSCELLO, SUPT. LAPE,
NYSB BCI.

INMATE INFORMATION:

IRIZARRY, CHRISTOPHER 99A0222 DOB 04/29/1978 ETHNIC - HISPANIC

<u>GEN INCIDENT</u> - <u>SPECIFIC INCIDENT</u>	<u>ROLE</u>	<u>WEAPON</u>	<u>FORCE</u>	<u>INJURY</u>
ASSAULT - ON STAFF-SEC	PERP	BODY USE	BATON	LACERATION
STF WEAPONS - BATON	PERP	BODY USE		

EMPLOYEE INFORMATION:

GRIMALDI, STEVEN A CO

<u>GEN INCIDENT</u> - <u>SPECIFIC INCIDENT</u>	<u>FORCE</u>	<u>INJURY</u>	<u>DEGREE</u>
ASSAULT - ON STAFF-SEC	BODY HOLD		

ROACH, GLENN W SGT

<u>GEN INCIDENT</u> - <u>SPECIFIC INCIDENT</u>	<u>FORCE</u>	<u>INJURY</u>	<u>DEGREE</u>
ASSAULT - ON STAFF-SEC			

HARRIS, MARK A CO

<u>GEN INCIDENT</u> - <u>SPECIFIC INCIDENT</u>	<u>FORCE</u>	<u>INJURY</u>	<u>DEGREE</u>
ASSAULT - ON STAFF-SEC	OTHER		

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PM

COXSACKIE FAC CODE 130 FAC LOG# 090065 CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL 0A 03 38S

USE OF FORCE YES WEAPON USED YES

EMPLOYEE INFORMATION:*****
DAVIES, ROBERT J III COGEN INCIDENT - SPECIFIC INCIDENT
ASSAULT - ON STAFF-SEC
STF WEAPONS - BATONFORCE
BATONINJURY
~~WOUND~~DEGREE
~~WOUND~~

SPT WILLIAM LAPE
SUPERINTENDENT08/04/09
DATE

UNS571 STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

10/01/09 USE OF FORCE REPORT

15:40:46

COXSACKIE

UF LOG NO. 090039.00

INCIDENT DATE 07/26/09 TIME 11:41AM

UI CCC NO. 210360

GEN LOC. 03 CELL

SPEC LOC. 0A-03-38S

CB LOG NO.

=====

INMATE	DIN	ETHNIC	ROLE
IRIZARRY, CHRISTOPHER	99A0222	HSP	PERP

=====

STAFF INVOLVED	TITLE	FORCE1	FORCE2	FORCE3	DEGREE
GRIMALDI, STEVEN A	CO	BODY HOLD			
HARRIS, MARK A	CO	OTHER	MECH RESTR		
DAVIES, ROBERT J III	CO	BATON	OTHER	BODY HOLD	

=====

DESCRIBE EVENTS LEADING UP TO THE APPLICATION OF FORCE:

OFFICER GRIMALDI ASSAULTED BY INMATE IRIZARRY DURING KEEP LOCK FEED-UP ON A3.

=====

DESCRIBE ACTUAL FORCE USED:

OFFICER GRIMALDI, AFTER BEING STRUCK, ATTEMPTS TO GRAB INMATE IN A BODY HOLD TO PREVENT FURTHER ASSAULT BY INMATE.

RESPONDING OFFICER HARRIS ENTERS CELL AND STRIKES INMATE WITH CLOSED FIST BLOWS TO THE HEAD/FACE OF INMATE, NUMEROUS STRIKES TO INMATE USING BOTH HANDS. OFFICER HARRIS THEN, USING BODY HOLDS WITH BOTH HANDS AROUND THE COLLAR AREA, TAKES THE INMATE TO THE FLOOR AND HOLDS HIM.

RESPONDING OFFICER DAVIES ENTERS THE CELL AND STRIKES THE INMATE WITH CLOSED FIST BLOWS TO THE HEAD AND UPPERBODY. BATON USED BY C.O. DAVIES, SEVERAL JABS WITH THE BATON TO THE UPPER BACK AREA OF THE INMATE. OFFICER HARRIS APPLIES MECHANICAL RESTRAINTS BEHIND BACK OF INMATE.

=====

UNS571 STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES
10/01/09 USE OF FORCE REPORT
15:40:46 COXSACKIE UF LOG NO. 090039.00
INCIDENT DATE 07/26/09 TIME 11:41AM UI CCC NO. 210360
GEN LOC. 03 CELL SPEC LOC. 0A-03-38S CB LOG NO.

=====

INMATE	DIN	ETHNIC	ROLE
IRIZARRY, CHRISTOPHER	99A0222	HSP	PERP

=====

EXAMINERS NAME	TITLE	EXAM DATE	TIME
K. GIORGIANNI	NURSE	07/26/09	12:20PM

PART B - PHYSICAL EXAMINATION/TREATMENT REPORT:
DOWN TO SHORTS ASSESSMENT. BLACK AND BLUE R-FOREHEAD, RED AND DISCOLORED
AREAS TO BACK OF HEAD L-SIDE. CUT TO OUTER EDGE OF R-EYE APPROX. 3/8"
LONG. SUPERFICIAL CUT BEHIND L-EAR. L-SCAPULA AREA RED. SEVERAL RED
MARKS GOING ACROSS L-UPPER ARM ABOVE ELBOW (BACK OF ARM). R-FOREARM HAS
AN ABRASION IN THE BACK. INMATE COMPLAINED OF JAW DISCOMFORT. C/O SORE
NECK AND BACK. INATE ABLE TO DRESS SELF WITH GOOD ROM WHILE DRESSING.
WHEN TALKING, DID NOT OPEN MOUTH FULLY. INMATE ALLOW TO WASH BLOOD OFF.
NURSE REQUIRED ASSISTANCE WITH DRIED BLOOD FOR BETTER VISUAL OF INJURIES.
(REFER TO WRITTEN REPORT FOR CONTINUATION OF NARRATIVE.....)

=====

SUPERVISOR REVIEW:

WAS INCIDENT VIDIOTAPED? NO
WERE USE OF FORCE PHOTOS TAKEN? YES USE OF FORCE
WERE USE OF FORCE PHOTOS REVIEWED? YES
WAS STAFF MEMBER INJURED? YES
WAS STAFF SEEN BY MEDICAL? YES USE OF FORCE
WAS INMATE INJURED? YES
WAS INMATE SEEN BY MEDICAL? YES USE OF FORCE
WAS THE UF MEMO COMPLETED? YES
WAS THE INMATE RETURNED TO THE CELL? NO MOVED TO: SHU 28
REPORTED BY: SGT G. ROACH
REVIEWED BY: LT J. HUFF

DATE: 07/26/09
DATE: 07/26/09

=====

REVIEW AND EVALUATION BY SUPERINTENDENT:

FORCE USED WAS APPROPRIATE AND WITHIN DEPARTMENTAL GUIDELINES AS DESCRIBED
IN THE USE OF FORCE REPORTS.

=====

SPT WILLIAM LAPE
SUPERINTENDENT

08/04/09
DATE

09/06/09 C130JWH
08:21:08 C130N078

DISCIPLINARY SYSTEM
130 COXSACKIE
DISCIPLINARY INCIDENT SUMMARY

KDCPM40
PAGE 1

MANUAL RECS ?

DIN: 99A0222 NYSID: 7816605Z NAME: IRIZARRY, CHRISTOPHER
CURRENT FACILITY: 630 SOUTHPORT CURRENT HOUSING LOCATION: 0A-07-012

TIER 3 INCIDENT: 07/26/09 11:41 AM CO S GRIMALDI COXSACKIE

ADDITIONAL OFFICERS: SGT J YUNG

HEARING : 08/07/09 01:26 PM CAPT RAYMOND COXSACKIE

APPEAL : PENDING

104.11 VIOLENT CONDUCT 104.13 CREATE DISTURB 100.11 ASSAULT ON STAFF

107.10 INTERFERENCE 106.10 DIRECT ORDER 107.11 HARASSMENT

109.12 MOVEMENT VIO.

24M SHU RECREATION PACKAGE SERVICE DTES 07/26/09 07/26/11

24M COMMISSARY PHONE SERVICE DTES 07/26/09 07/26/11

24M GOOD TIME

NEXT DIN:

<CURSOR + ENTER> INC DETAIL

<ENTER> <PF3> EXIT(FUNCT)

<PF7> BACKWARD

<CLEAR> EXIT(SYSTEM)

15:53:42 Thu Oct 01, 2009

10/01/09 INMATE TRANSFER SYSTEM KITS31
15:53:59 C999N282 3.1. - CURRENT STATUS INQUIRY REVIEW 0913004997
DIN: 99A0222 NAME: IRIZARRY, CHRISTOPHER OWNING FAC: SOUTHPORT
----- LOCATION: SOUTHPORT -----
SENDING FAC: 130 COXSACKIE DATE: 08/13/09
REF. REASON: SHU TO SHU
SEC LVL: MAX 01 OMH LVL: 6 MED LVL: 3
TRANSFER CONSIDERATIONS: OTHER

(SHU200 REFERRAL - SCREENED FOR DOUBLE CELL)

EXPLANA- (INMATE WAS FOUND GUILTY ON 8/7/09 FOR VIOLENT CONDUCT, ASSAULT ON)
TION FOR (STAFF, CREATING DISTURBANCE, HARRASSMENT, INTERFERENCE & DIRECT ORD-)
TRANSFER: (ER. INMATE PUNCHED A CO SEVERAL TIMES IN THE HEAD WHILE CO WAS)
(ATTEMPTING DO FEED UP IN CELL. 24 MOS. SHU. SHU RELEASE 7/26/11.)

PRIORITY TRANSFER: YES

SPECIFIC FACILITY:

REV: BSA HUB TRL C CLM HS MH C SH IG DCCF
ANALYST REVIEW:

DECISION: A 17 08/13/09 APPROVAL SHU TO SHU

SEC. CLASS: 01 MAX A OMH SRVC LEVEL: 6 MEDICAL SRVC LEVEL: 3

T.O. DATE: 08/13/09 FACILITY: SOUTHPORT ANALYST: CCLMJWC

TRANSFER HOLD:

DATE:

T.O. CLOSED 08/24/09

<ENTER> <PF3> EXIT(FUNCT) <PF4> RETURN

OPTION:

NEXT DIN: _____

*** REQUESTOR: 130IGP - Killar, Ed Cocksackie ***

*** SYSM OUTBASKET PRINT ***

MESSAGE ID: 859247A DATE: 10/02/09 TIME: 08:32am PRIORITY: 000

SUBJECT: Reply to CX-15319-09

*** Original Author: 999IGPJNA - Antonelli, John N.; 10/01/09 03:58pm

Good afternoon,

I am going to need statements from Officers Grimaldi and Davies
addressing the grievant's allegation of assault.

Thanks for the help.....CORC IS 10/21.....JOHN

*** Comments From: 130IGP - Killar, Ed; 10/02/09 08:32am
ok will put in a request to the Capt's office
E Killar

Sent to: 999IGPJNA

Antonelli, John N.

(10)

*Send to
Capt.
10-2*

NYS DEPT. OF
CORRECTIONAL SERVICES
OCT 15 2009
RECEIVED
INMATE GRIEVANCE

**AII: JOHN
Antonelli
CORC**

*** REQUESTOR: 999IGPJNA - Antonelli, John N. Cen - Inmate Grievance ***

*** S Y S M O U T B A S K E T P R I N T ***

MESSAGE ID: 859247 DATE: 10/01/09 TIME: 03:58pm PRIORITY: 000

SUBJECT: CX-15319-09
Good afternoon,

I am going to need statements from Officers Grimaldi and Davies
addressing the grievant's allegation of assault.

Thanks for the help.....CORC IS 10/21.....JOHN

Sent to: 130IGP Killar, Ed (to)

49 CORC WORKSHEET

GRIEVANCE: CV 15319.09

IRIZARRY

CONTACT: 10/1

9990222

CO GRIMALDI

7/26 assault

CO DAVIES

CO HARRIS ✓

4/18 INV

CO KING ✓

pre-1993

SGT YUNG ✓

held accountable

CO FERNANDEZ ✓

LT HUFF ✓

CPT RAYMOND ✓

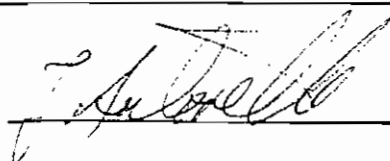
DCI
37
38B

47 AS VC & DH 1000

30

JAF

REVIEWER:





STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY
COXSACKIE, NEW YORK 12051-0200
(518) 731-2781

GLENN S. GOORD
COMMISSIONER

ISRAEL RIVERA
SUPERINTENDENT

MEMORANDUM

TO: Lt. Huff

FROM: C.O. Fernandez

DATE: 8/31/09

SUBJ: Inmate Irizarry #99A0222

On 7/26/09 I C.O. Fernandez responded to A³.
I escorted Inmate Irizarry #99A0222 from his cell
to medical and SHU. During the escort I observed no
staff member assault or threaten Inmate Irizarry.

Respectfully Submitted

C.O. C. 

C. Fernandez

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY

WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Lt. Huff

FROM: C.O. M. Harris

DATE: 8/31/69

SUBJECT: GRIEVANCE Response IRIZARRY, C 99A0222

At no time did I go outside the scope of my duties. I denied all allegations against me. I struck this Inmate with closed fists in the face and head. I struck him because he started punching Officer Carmaldi in the head. All necessary force was documented.

Respectfully submitted

C.O. M. Harris

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY
WILLIAM R. LAPE
SUPERINTENDENT

MEMORANDUM

TO: Capt. J. Raymond

FROM: Lt. J. Huff

DATE: 9-5-09

SUBJECT: CX15319-09

Sir, I have investigated the following grievance 15319-09 submitted by inmate Irizarry 99A0222. I interviewed inmate Irizarry, he stated he had nothing to add to his grievance, the whole thing was a setup. Inmate had no witness at this time.

I interviewed the following staff, Officers Grimaldi, Davies, Harris, King, Fernandez and Sgt. Yung. All staff denied the allegations made by inmate Irizarry in his grievance. Staff stated that on 7-26-09 inmate Irizarry assaulted Officer Grimaldi during keep lock feed up. Inmate Irizarry was placed on keep lock due to his actions in the assembly by Sgt. Yung on 7-21-09. Force was used by Officers Grimaldi, Harris and Davies including the use of a baton to gain compliance of inmate Irizarry as inmate Irizarry was attempting to assault the Officers. Officers Grimaldi and Davies will follow up with a written statement as soon as possible.

Based in the information gathered during this investigation, I found nothing to substantiate inmate Irizarry's grievance. Inmate Irizarry was found guilty at a Tier 3 hearing for his actions on 7-26-09 including assault on staff. The disposition from the hearing is 24 months SHU, loss of recreation, packages, commissary, phone and good time. Force was used on inmate Irizarry by staff and was documented in uof #09-0039. Inmate Irizarry did submit this grievance following his hearing on 7-26-09.

Southport

DU

State of New York
Department of Correctional Services
Coxsackie Correctional Facility

INMATE GRIEVANCE PROGRAM
Superintendent's Response

Grievance No.
CX-15319-09

Facility
Coxsackie C.F.

Title of Grievance
Allegations of staff assault

Date Filed
8/03/09

Policy Designation
I

Class Code
49

Superintendent's/Designee's Signature
Will [Signature] Date
9/15/09

Grievant: Irizarry, C.

DIN:# 99A0222

Housing Unit: SHU-28

Staff denies all allegations of assaulting the grievant. The grievant was interviewed by a Lieutenant and provided no witnesses or additional information to his claims. The grievant was found guilty at a Tier III hearing for his actions on 7/26/09, including staff assault.

The grievance is denied.

Appeal Statement

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) working days from receipt of this notice to file your appeal. Please state why you are appealing this decision C.O.R.C.

I WAS never Interviewed by ANY one Regarding this Complaint,
And Being Found Guilty AT A Tier III Hearing Doesn't have ANY
Thing to do with The FACT THAT I WAS ASSAULTED by STAFF

Christopher Irizarry
Grievant's Signature

9-17-09
Date

[Signature]
Grievance Clerk's Signature

RECEIVED
Date SEP 23 2009

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES
INMATE GRIEVANCE COMPLAINT
COXSACKIE CORRECTIONAL FACILITY

49

Grievance No.
CX-15319-09Short Title ALLEGATIONS OF STAFF ASSAULTDate: Monday, August 03, 2009Name: IRIZARRY, C Dept. No.: 99-A-0222 Housing Unit: SHU-2-8
Program AM: _____ PM: _____

(Please Print or Type - This for must be filed within 21 days of Grievance Incident)

Description of Problem: (Please make as brief as possible) :

SEE ATTACHED COPYGrievant
Signature: Signature and Hand written original on file with I.G.R.C. Office

Inmate Grievance Resolution Committee clerk

Grievance Clerk: KILLAR Date: **RECEIVED 8/3/2009**Advisor Requested: ☐ YES ☐ NO Who: _____

Action requested by inmate:

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:


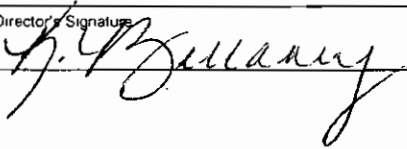
(To be completed only if resolved prior to hearing)

Grievant
Signature: _____ Date: _____

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

EXHIBIT

D

 <p>STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p>INMATE GRIEVANCE PROGRAM CENTRAL OFFICE REVIEW COMMITTEE</p>	Grievance Number CX-15336-09	Desig./Code I/22	Date Filed 8/10/09
	Facility Coxsackie Correctional Facility		
	Title of Grievance Need Medical Attention		
	Director's Signature 		Date 10/7/09

10/7/09

GRIEVANT'S REQUEST UNANIMOUSLY DENIED

Upon full hearing of the facts and circumstances in the instant case, and upon recommendation of the Division of Health Services, the action requested herein is hereby denied. CORC upholds the determination of the Superintendent for the reasons stated.

Contrary to the grievant's assertions, CORC has not been presented with sufficient evidence to substantiate any malfeasance by staff. CORC notes that the grievant was involved in an appropriately documented Use of Force and Unusual Incident on 7/26/09, and that he received prompt medical attention.

CORC asserts that, consistent with Health Services Policy Manual Item #1.21 - Health Care Referrals, the Facility Health Services Directors (FHSD) have the sole responsibility for providing treatment to the inmates under their care. The FHSDs have the responsibility of determining what outside health referrals are needed by the target population. CORC notes that the grievant's knee was x-rayed on 8/3/09, with no fracture or other significant abnormalities indicated. CORC has been advised that the grievant was notified of the diagnostic results. CORC advises the grievant that the proper avenue to address medical concerns is via the sick call mechanism.

CORC notes that the grievant is not entitled to a second medical opinion solely upon request. CORC advises the grievant that he may request a second opinion from an outside provider of his choice by making the necessary arrangements and assuming financial responsibility as specified in HSPM #7.02.

CORC notes that Directive #4040, Section 701.1, states, in part, that the grievance program is not intended to support an adversary process.

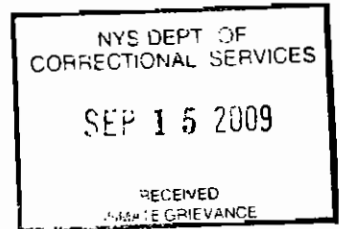
CORC notes that the grievant has been transferred.

JA/sr

COXSACKIE CORRECTIONAL FACILITY

M

CASE HISTORY AND RECORD



GRIEVANCE NO: CX-15336-09

NAME: Irizarry, C.

DIN NO: 99A0222

TITLE: Need Medical attention

CODE: 22

INSTUTIONAL/DEPARTMENTAL: I

DATE FILED: 8/10/09

IGRC DATE: 8/20/09

SUPERINTENDENT DATE: 9/01/09

APPEAL DATE: 9/11/09

INVESTIGATION:

IGRC INVESTIGATION DATE:

FACILITY POLICY:

CAPTAIN DATE:

SUPERVISOR DATE: 8/12/09

EMPLOYEE DATE:

PRIOR C.O.R.C.:

OTHER:

I.G.P. SUPERVISORS SIGNATURE:

STATE OF NEW YORK
COXSACKIE CORRECTIONAL FACILITY
CASE AND HISTORY

GRIEVANT NAME: Irizarry, C.

DIN#99A0222

GRIEVANCE NO: CX-15336-09

TITLE: Need Medical attention

DATE FILED: 8/10/09

GRIEVANCE CODE: 22

GRIEVANCE: Description of Problem: I am being denied my constitutional right to adequate medical care. I have a possible fractured left knee and I have received no treatment for it with the exception of motrin or tramadol. I sustained this injury on 7-26-09 while being brutally attacked and assaulted by correction officer Mark Harris. He twisted my leg and my knee snapped. I reported this injury to nurse K. Giorgianni and tried to explain to her how it happened but she refused to write down how it happened and she just jotted down in my medical report that I complained of pain in knees. Since I was admitted to the SHU I been complaining about my knee being broken and I put down for sick call several times. All they offered me were Moltrin. Moltrin is not going to fix a broken knee. I was seen by doctor Miller last week. He examined me and put me down for x-rays. I took x-rays Monday and I still didn't hear anything. My knee is damaged and I am going through excruciating pain in this cell. I need to be seen by a Doctor in a outside hospital.

ACTION REQUESTED: That I am seen by outside Doctor for second opinion. That I receive medical treatment for my knee. That if I am crippled behind this facilities failure to give me medical treatment that all parties involved responsible be held liable.

I.G.R.C. RESPONSE: Accepted to the extent that: As per investigation inmate Irizarry was examined by the Doctor on 7/27/09 and 8/03/09. Some swelling was noted to his left knee and he was ordered Ultram to address his pain, and X-ray was completed on 8/03/09 and showed no fracture or other significant abnormalities. He was notified of the results of the X-ray when the report was returned to the medical department. As per this office inmate Irizarry received the attention he needed. If the pain or problem continue, inmate is advised to go back to sick call and have it checked out.

SUPERINTENDENT'S RESPONSE: The grievant was examined by the doctor on 7/27/09 and 8/03/09 and Ultram was ordered for some swelling on his left knee. He also received an X-ray on 8/03/09 and was notified that it showed no fracture or other significant abnormalities. The grievant is receiving appropriate medical care. The grievance is denied.

APPEAL STATEMENT: I did not receive adequate medical care. After X-ray left knee was still swollen and still is. Cannot bend all the way and still feeling pain, was never notified of results of X-ray.

NAME: C, IRIZARRY

99-A-0222

UNIT: SHU-28

CONSOLIDATED INMATES: CX- 15336 - 09

Response of IGRC:

Accepted to the extent that: As per investigation Inmate Irizarry was examined by the Doctor on 7/27/09 and 8/3/09. Some swelling was noted to his left knee and he was ordered Ultram to address his pain, and X-Ray was completed on 8/3/09 and showed no fracture or other significant abnormalities. He was notified of the results of the X-Ray when the report was returned to the medical department. As per this office Inmate Irizarry received the attention he needed. If the pain or problem continue, Inmate is advised to go back to sick call and have it checked out.

*WAS Transferred ON 8-21-09
TO Southport Cause of delay*

Date returned to Inmate: AUG 20 2009

IGRC Member:

Chairperson:

Return within 7 days and check appropriate boxes.

☒ I disagree with IGRC response and wish to appeal to the Superintendent.

☐ I have reviewed deadlocked responses. Pass-Thru to Superintendent.

☐ I agree with IGRC response and wish to appeal to the Superintendent.

☐ I apply to the IGP Supervisor for review of dismissal.

☐ I agree with IGRC response and do not wish to appeal.

Signed:

Charles Irizarry
Grievant

8-26-09
Date

HEARING DATE

AUG 20 2009

Grievance Clerk's Receipt

Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent: _____
Date:

Grievance forwarded to the Superintendent for action: _____
Date:

* An exception to the time limit may be requested under Directive #4040, section 701.6(g).

28

GRIEVANCE COMPLAINT

CX-15336-09

CORSAKIE

CHRISTOPHER IRIZARRY 99A0022

RECEIVED

I.G.R.C. CLERK

AUG 10 2009

SHU 28 CELL

DATE: 8-9-09

DESCRIPTION OF INCIDENT I AM BEING DENIED MY CONSTITUTIONAL RIGHT TO ADEQUATE MEDICAL CARE. I HAVE A POSSIBLE FRACTURED LEFT KNEE AND I HAVE RECEIVED NO TREATMENT, OR IT WITH THE EXCEPTION OF MOTRIN OR TRAMADOL, I SUSTAINED THIS INJURY ON 7-26-09 WHILE BEING BRUTALLY ATTACKED AND ASSAULTED BY CORRECTIONS OFFICER MARK HARRIS. HE TWISTED MY LEG AND MY KNEE SNAPPED. I REPORTED THIS INJURY TO NURSE GIORGIANNI AND TRIED TO EXPLAIN TO HER HOW IT HAPPENED BUT SHE REFUSED TO WRITE DOWN HOW IT HAPPENED AND SHE JUST PUT IT DOWN IN MY MEDICAL REPORT THAT I COMPLAINED OF PAIN IN KNEES. SINCE I WAS ADMITTED TO THE SHU I BEEN COMPLAINING ABOUT MY KNEE BEING BROKEN AND I PUT DOWN IN SICK CALL SEVERAL TIMES. ALL THEY OFFERED ME WERE MOTRIN. MOTRIN IS NOT GOING TO FIX A BROKEN KNEE. I WAS SEEN BY DOCTOR MILLER LAST WEEK. HE EXAMINED ME AND PUT ME DOWN FOR X-RAYS. I TOOK X-RAYS MONDAY AND I STILL DIDN'T HEAR ANYTHING. MY KNEE IS DAMAGED AND I AM GOING THROUGH EXCRUCIATING PAIN IN THIS CELL. I NEED TO BE SEEN BY A DOCTOR IN A OUTSIDE HOSPITAL

Christy

Advisor Requested YES

ACTION Requested by inmate

Who: Nurse administrator

THAT I AM SEEN BY OUTSIDE DOCTOR FOR SECOND OPINION. THAT I RECEIVE MEDICAL TREATMENT FOR MY KNEE. THAT IF I AM CRIPPLED BEHIND THIS FACILITY'S FAILURE TO GIVE ME MEDICAL TREATMENT THAT ALL PARTIES INVOLVED RESPONSIBLE BE HELD LIABLE.

State of New York
Department of Correctional Services
Coxsackie Correctional Facility

INMATE GRIEVANCE PROGRAM
Superintendent's Response

Grievance No.
CX-15336-09

Facility
Coxsackie C.F.

Title of Grievance
Need Medical attention

Date Filed
8/10/09

Policy Designation
I

Class Code
22

Superintendent's/Designee's Signature Date

Will [Signature] 9/1/09

Grievant: Irizarry, C.

DIN:# 99A0222

Housing Unit: SHU-28

The grievant was examined by the doctor on 7/27/09 and 8/3/09 and Ultram was ordered for some swelling on his left knee. He also received an X-ray on 8/3/09 and was notified that it showed no fracture or other significant abnormalities. The grievant is receiving appropriate medical care.

The grievance is denied.

Appeal Statement

If you wish to refer the above decision of the Superintendent, please sign below and return this copy to your Inmate Grievance Clerk. You have seven (7) working days from receipt of this notice to file your appeal. Please state why you are appealing this decision C.O.R.C.

I did not receive adequate medical care. After X-ray left knee was still swollen and still is. Cannot bend all the way and still feeling pain. Was never notified of results of X-ray.

christopher [Signature]
Grievant's Signature

9-8-09
Date

[Signature]
Grievance Clerk's Signature

RECEIVED
Date **SEP 11 2009**

treatment plan.

~~XXXXXXXXXX~~ -- ~~XXXXXXXXXX~~ -- Uphold Supt response. Hospital's are required to meet health standards and codes of cleanliness and safety however corrections has no jurisdiction over the hospital operations.

~~XXXXXXXXXX~~ -- ~~XXXXXXXXXX~~ -- Has Dermatology appt scheduled for 10/6.

~~XXXXXXXXXX~~ -- ~~XXXXXXXXXX~~ -- Uphold supt response. A stress test is being scheduled and an MRH was done on 9/30/09. Started on Zoloft after being seen by OMH. May request second opinion by using HSPolicy #7.2.

CX--15336--Irizarry--99a0222--xray 1 knee on 8/11 showed sm joint effusion 1 knee. no fx, Report received on 8/11. on 8/10 was notified ofk L knee results and seen at sick call on 8/12/09.

~~XXXXXXXXXX~~ -- ~~XXXXXXXXXX~~ -- transferred to SPT. Uphold Ssupt response. On 8/18 urine sent. Refused to sign form for refusal but refused wt and Vs on 8/7, 8/6, 8/5, 8/4.....refused call out on 8/6/09.. uphold Supt response.

~~XXXXXXXXXX~~ -- ~~XXXXXXXXXX~~ -- 99a0222 -- Trasferred to SPT. Seen 8/25/09 by PA for R shoulder pain at SPT.

Sent to: GRIEVANCE

<list>

(to)

G.M.
59B prior

EILEEN DINISPO

55B 4.10
OPI

37

TAF

ISPS KILLAR

CX 15319 priors @ COAC
ie assault by staff

1:34:15 Tue Oct 06, 2009

10/06/09 CIGRJNA HEALTH SERVICES SYSTEM KHSCM41
11:33:15 C999N282 4.1 - REFERRAL HISTORY ALL - REFERRALS
DIN: 99A0222 NAME: IRIZARRY, CHRISTOPHER NYSID: 7816605Z DOB: 04/29/1978
OWN FAC: SOUTHPORT CUR FAC: SOUTHPORT CUR LOC: 0A-07-012
MEDICAL HOLD: *NONE NO. OF REFERRALS: 25

A	DATE	FACILITY	TOS	POS	URG	REF	STATUS	REFERRAL
					LVL	TYP		NUMBER
-	09/21/09	SOUTHPORT	ACC	SOUTHPORT CF	ASGN	INIT	SCHD 03/01/10	09429066.01
-	09/21/09	SOUTHPORT	ACC		ASGN	INIT	*SEEN-NOT SCH	09429057.01
-	08/25/09	SOUTHPORT	LAB	SOUTHPORT CF	ROUT	INIT	SEEN 09/17/09	09386505.01
-	07/27/09	COXSACKIE	XSK	COXSACKIE RMU	SOON	INIT	SEEN 08/03/09	09338652.01
-	06/11/09	COXSACKIE	PRI		ASGN	INIT	*TRANSFERRED*	09265490.01
-	05/28/09	COXSACKIE	PRI	COXSACKIE CF	SOON	INIT	SEEN 06/11/09	09240300.01
-	03/02/09	CLINTON ANNX	NRS		ASGN	INIT	*TRANSFERRED*	09095746.01
-	08/11/08	CLINTON GEN	PRI	CLINTON CF	ROUT	INIT	SEEN 09/03/08	08348083.01
-	07/14/08	CLINTON GEN	NRS	CLINTON CF	URG	F/UP	SEEN 07/16/08	08302160.01
-	06/26/08	CLINTON GEN	NRS	CLINTON CF	ROUT	INIT	SEEN 07/14/08	08276946.01
-	01/18/08	CLINTON GEN	NSV	CLINTON CF	ROUT	INIT	SEEN 01/25/08	08027703.01
-	11/03/07	CLINTON GEN	OPO	CLINTON CF	ASGN	INIT	SEEN 12/11/07	07439421.01M

ACTIONS: X SELECT O OVERVW A APPTS

Q PRNT FORM TOS: _____ NEXT DIN: _____
OPTION: _____

<ENTER> <CURSOR+ENTER> SELECT <PF3> EXIT <PF6> ACT REFERRALS <PF7> BACKWARD
<PF8> FORWARD <PF9> CCP REFERRALS

11:32:12 Tue Oct 06, 2009

10/06/09 CIGRJNA HEALTH SERVICES SYSTEM KHSCM4W
11:31:01 C999N282 4.5.2 - REFERRAL OVERVIEW - II
DIN: 99A0222 NAME: IRIZARRY, CHRISTOPHER NYSID: 78166052 DOB: 04/29/1978
OWN FAC: SOUTHPORT CUR FAC: SOUTHPORT CUR LOC: 0A-07-012
REFERRAL NO.: 09338652.01 INITIAL
REASON FOR CONSULTATION: N MAIL N FAX USER: 08/03/09 10:40A C130JML

(LEFT KNEE FOR C/O PAIN FOLLOWING ALTERCATION; R/O FRACTURE)

()

()

()

()

DECISION COMMENTS:

()

()

()

APPOINTMENT COMMENTS: USER: 08/03/09 01:40P C130KSD

()

()

POST-CLINIC COMMENTS: USER: 08/11/09 07:15A C130S3M

(LEFT KNEE XRAY COMPLETED-CD)

(REPORT REC 8/11/09)

NEXT REF: _____

OPTION: _____

<ENTER> <PF3> EXIT <PF6> OVERVIEW-I <PF10> APPT(REF) <PF11> APPT(DIN) <CLEAR>

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PM

COXSACKIE

FAC CODE 130 FAC LOG# 090065

CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL

0A 03 38S

TELEPHONE DATE 07/26/09 TIME 03:14 PM

PERSON CALLING LT J. HUFF
PERSON RECEIVING CAPT JEREMY KNAPP

REPORT DATE 07/31/09 PERSON REPORTING EMP SHERRIE L. CISLER

USE OF FORCE YES WEAPON USED YES

ASSAULT
ON STAFF - SECURITY

(02) 03

STAFF USE OF WEAPONS
BATON(20) 05
*****DESCRIPTION:

ON 7-26-09 AT APPROXIMATELY 11:41 AM AS OFFICER GRIMALDI OPENED INMATE IRIZARRY'S 99A0222 CELL GATE A3 38, TO GIVE INMATE IRIZARRY A KEEPLOCK TRAY, INMATE IRIZARRY PUNCHED OFFICER GRIMALDI IN THE FACE WITH HIS CLOSED RIGHT FIST. OFFICER GRIMALDI ATTEMPTED TO DEFEND HIMSELF USING BODY HOLDS, INMATE IRIZARRY CONTINUED TO PUNCH OFFICER GRIMALDI WITH BOTH FIST STRIKING OFFICER GRIMALDI IN THE HEAD AND FACE. OFFICER DAVIES ACTIVATED HIS PAS AND RESPONDED TO A3 38 CELL. OFFICER DAVIES THEN ATTEMPTED TO USE BODY HOLDS ON INMATE IRIZARRY GIVING INMATE IRIZARRY ORDERS TO STOP. INMATE IRIZARRY FAILED TO COMPLY. INMATE IRIZARRY THEN STRUCK OFFICER DAVIES IN THE RIGHT EYE WITH A CLOSED RIGHT FIST, OFFICER DAVIES PUNCHED INMATE IRIZARRY WITH BOTH FISTS 5-6 TIMES IN THE HEAD AND UPPER BODY. INMATE IRIZARRY CONTINUED TO PUNCH AND KICK. OFFICER DAVIES THEN STRUCK INMATE IRIZARRY 3 TO 4 TIMES WITH A BATON IN THE UPPER BODY. OFFICER HARRIS PUNCHED IRIZARRY 6-7 TIMES IN THE HEAD/FACE WITH BOTH FISTS, MECHANICAL RESTRAINTS WERE APPLIED ON IRIZARRY BY OFFICER HARRIS AS INMATE COMPLIED.

EVENTS CAUSING:

ON THE ABOVE DATE AND TIME, AS C.O. GRIMALDI OPENED INMATE IRIZARRY'S CELL GATE (A-3-38), INMATE IRIZARRY PUNCHED C.O. GRIMALDI IN THE FACE WITH HIS CLOSED RIGHT FIST.

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PMCOXSACKIE FAC CODE 130 FAC LOG# 090065 CCC# 210360
UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL 0A 03 38S

USE OF FORCE YES WEAPON USED YES

ACTION TAKEN:

INMATE IRIZARRY ESCORTED TO MEDICAL, EXAMINED BY MEDICAL INJURIES NOTED
BRUISE RIGHT SIDE OF FOREHEAD, 3/8" LACERATION EDGE OF RIGHT EYE,
SUPERFICIAL CUT BEHIND LEFT EAR, ABRASION RIGHT FOREARM.COMPLAINS OF PAIN
HEAD AND BACK.CO DAVIES EXAMINED BY MEDICAL, SMALL LACERATION AND BRUISING
RIGHT EYE. DAVIES RELIEVED OF DUTY, FOLLOWUP WITH AMCH EMERGENCY ROOM.
OFFICER GRIMALDI EXAMINED BY MEDICAL, BRUISE RIGHT EYE, COMPLAINS OF PAIN
LEFT ELBOW, LEFT SIDE OF FACE. RELIEVED OF DUTY TO FOLLOWUP WITH DOCTOR.
OFFICER HARRIS EXAMINED BY MEDICAL, COMPLAINS OF PAIN RIGHT THUMB,
LACERATION LEFT KNUCKLES. REMAINED ON DUTY. PHOTOS TAKEN OF INMATE AND
INVOLVED STAFF. INMATE IRIZARRY PLACED IN SHU 28 CELL WITHOUT INCIDENT.
PHOTOS AND PAPERWORK SUBMITTED. SGT. ROACH RESPONDED TO INCIDENT AND IS
INVESTIGATING. NOTIFICATIONS: OD STWD. STICKLES,DSS MARTUSCELLO, SUPT.
LAPE, CCC CAPT. SIGNOR, NYSP BCI. OFFICER DAVIES BATON PLACED IN EVIDENCE
BY SGT. ROACH.

MEDICAL REPORT:

REFER TO UOF #09-0065 FOR INMATE MEDICAL REPORT.

PROPERTY DAMAGE:

N/A

NOTIFICATION (FAMILY):

N/A

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PM

COXSACKIE FAC CODE 130 FAC LOG# 090065 CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL 0A 03 38S

USE OF FORCE YES WEAPON USED YES

NOTIFICATION (POLICE/OTHER):CCC-CAPT. SIGNOR, OD-STEWARD STICKLES, DSS MARTUSCELLO, SUPT. LAPE,
NYSP BCI.

INMATE INFORMATION:

IRIZARRY, CHRISTOPHER 99A0222 DOB 04/29/1978 ETHNIC - HISPANIC

<u>GEN INCIDENT</u>	<u>- SPECIFIC INCIDENT</u>	<u>ROLE</u>	<u>WEAPON</u>	<u>FORCE</u>	<u>INJURY</u>
ASSAULT	- ON STAFF-SEC	PERP	BODY USE	BATON	LACERATION
STF WEAPONS	- BATON	PERP	BODY USE		

EMPLOYEE INFORMATION:

GRIMALDI, STEVEN A CO

<u>GEN INCIDENT</u>	<u>- SPECIFIC INCIDENT</u>	<u>FORCE</u>	<u>INJURY</u>	<u>DEGREE</u>
ASSAULT	- ON STAFF-SEC	BODY HOLD	XXXXXX	XXXXXX

ROACH, GLENN W SGT

<u>GEN INCIDENT</u>	<u>- SPECIFIC INCIDENT</u>	<u>FORCE</u>	<u>INJURY</u>	<u>DEGREE</u>
ASSAULT	- ON STAFF-SEC			

HARRIS, MARK A CO

<u>GEN INCIDENT</u>	<u>- SPECIFIC INCIDENT</u>	<u>FORCE</u>	<u>INJURY</u>	<u>DEGREE</u>
ASSAULT	- ON STAFF-SEC	OTHER	XXXXXX	XXXXXX

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
UNUSUAL INCIDENT REPORTPRINTED AT
10/01/09 03:40 PM

COXSACKIE

FAC CODE 130

FAC LOG# 090065

CCC# 210360

UF LOG# 090039

INCIDENT DATE 07/26/09 TIME 11:41 AM LOCATION CELL

0A 03 38S

USE OF FORCE YES

WEAPON USED YES

EMPLOYEE INFORMATION:

DAVIES, ROBERT J III

CO

GEN INCIDENT - SPECIFIC INCIDENTFORCEINJURYDEGREE

ASSAULT - ON STAFF-SEC

BATON

STF WEAPONS - BATON

SPT WILLIAM LAPE
SUPERINTENDENT08/04/09
DATE

UNS571 STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES

10/01/09

USE OF FORCE REPORT

15:40:46

COXSACKIE

UF LOG NO. 090039.00

INCIDENT DATE 07/26/09 TIME 11:41AM

UI CCC NO. 210360

GEN LOC. 03 CELL

SPEC LOC. 0A-03-38S

CB LOG NO.

=====

INMATE	DIN	ETHNIC	ROLE
IRIZARRY, CHRISTOPHER	99A0222	HSP	PERP

=====

=====

STAFF INVOLVED	TITLE	FORCE1	FORCE2	FORCE3	DEGREE
GRIMALDI, STEVEN A	CO	BODY HOLD			
HARRIS, MARK A	CO	OTHER	MECH RESTR		
DAVIES, ROBERT J III	CO	BATON	OTHER	BODY HOLD	

=====

DESCRIBE EVENTS LEADING UP TO THE APPLICATION OF FORCE:

OFFICER GRIMALDI ASSAULTED BY INMATE IRIZARRY DURING KEEP LOCK FEED-UP ON A3.

=====

DESCRIBE ACTUAL FORCE USED:

OFFICER GRIMALDI, AFTER BEING STRUCK, ATTEMPTS TO GRAB INMATE IN A BODY HOLD TO PREVENT FURTHER ASSAULT BY INMATE.
RESPONDING OFFICER HARRIS ENTERS CELL AND STRIKES INMATE WITH CLOSED FIST BLOWS TO THE HEAD/FACE OF INMATE, NUMEROUS STRIKES TO INMATE USING BOTH HANDS. OFFICER HARRIS THEN, USING BODY HOLDS WITH BOTH HANDS AROUND THE COLLAR AREA, TAKES THE INMATE TO THE FLOOR AND HOLDS HIM.
RESPONDING OFFICER DAVIES ENTERS THE CELL AND STRIKES THE INMATE WITH CLOSED FIST BLOWS TO THE HEAD AND UPPERBODY. BATON USED BY C.O. DAVIES, SEVERAL JABS WITH THE BATON TO THE UPPER BACK AREA OF THE INMATE.
OFFICER HARRIS APPLIES MECHANICAL RESTRAINTS BEHIND BACK OF INMATE.

=====

UNS571 STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES
10/01/09 USE OF FORCE REPORT
15:40:46 COXSACKIE UF LOG NO. 090039.00
 INCIDENT DATE 07/26/09 TIME 11:41AM UI CCC NO. 210360
GEN LOC. 03 CELL SPEC LOC. 0A-03-38S CB LOG NO.

=====

INMATE	DIN	ETHNIC	ROLE
IRIZARRY, CHRISTOPHER	99A0222	HSP	PERP

=====

EXAMINERS NAME	TITLE	EXAM DATE	TIME
K. GIORGIANNI	NURSE	07/26/09	12:20PM

PART B - PHYSICAL EXAMINATION/TREATMENT REPORT:
DOWN TO SHORTS ASSESSMENT. BLACK AND BLUE R-FOREHEAD, RED AND DISCOLORED
AREAS TO BACK OF HEAD L-SIDE. CUT TO OUTER EDGE OF R-EYE APPROX. 3/8"
LONG. SUPERFICIAL CUT BEHIND L-EAR. L-SCAPULA AREA RED. SEVERAL RED
MARKS GOING ACROSS L-UPPER ARM ABOVE ELBOW (BACK OF ARM). R-FOREARM HAS
AN ABRASION IN THE BACK. INMATE COMPLAINED OF JAW DISCOMFORT. C/O SORE
NECK AND BACK. INATE ABLE TO DRESS SELF WITH GOOD ROM WHILE DRESSING.
WHEN TALKING, DID NOT OPEN MOUTH FULLY. INMATE ALLOW TO WASH BLOOD OFF.
NURSE REQUIRED ASSISTANCE WITH DRIED BLOOD FOR BETTER VISUAL OF INJURIES.
(REFER TO WRITTEN REPORT FOR CONTINUATION OF NARRATIVE.....)

=====

SUPERVISOR REVIEW:

WAS INCIDENT VIDIOTAPED? NO
WERE USE OF FORCE PHOTOS TAKEN? YES USE OF FORCE
WERE USE OF FORCE PHOTOS REVIEWED? YES
WAS STAFF MEMBER INJURED? YES
WAS STAFF SEEN BY MEDICAL? YES USE OF FORCE
WAS INMATE INJURED? YES
WAS INMATE SEEN BY MEDICAL? YES USE OF FORCE
WAS THE UF MEMO COMPLETED? YES
WAS THE INMATE RETURNED TO THE CELL? NO MOVED TO: SHU 28
REPORTED BY: SGT G. ROACH DATE: 07/26/09
REVIEWED BY: LT J. HUFF DATE: 07/26/09

=====

REVIEW AND EVALUATION BY SUPERINTENDENT:
FORCE USED WAS APPROPRIATE AND WITHIN DEPARTMENTAL GUIDELINES AS DESCRIBED
IN THE USE OF FORCE REPORTS.

=====

SPT WILLIAM LAPE
SUPERINTENDENT

08/04/09
DATE

08:21:34 Sun Sep 06, 2009

09/06/09 C130JWH
08:21:08 C130N078

DISCIPLINARY SYSTEM
130 COXSACKIE
DISCIPLINARY INCIDENT SUMMARY

KDCPM40
PAGE 1

MANUAL RECS ?

DIN: 99A0222 NYSID: 7816605Z NAME: IRIZARRY, CHRISTOPHER
CURRENT FACILITY: 630 SOUTHPORT CURRENT HOUSING LOCATION: 0A-07-012

TIER 3 INCIDENT: 07/26/09 11:41 AM CO S GRIMALDI COXSACKIE

ADDITIONAL OFFICERS: SGT J YUNG

HEARING : 08/07/09 01:26 PM CAPT RAYMOND COXSACKIE

APPEAL : PENDING

104.11 VIOLENT CONDUCT 104.13 CREATE DISTURB 100.11 ASSAULT ON STAFF

107.10 INTERFERENCE 106.10 DIRECT ORDER 107.11 HARASSMENT

109.12 MOVEMENT VIO.

24M SHU RECREATION PACKAGE SERVICE DTES 07/26/09 07/26/11

24M COMMISSARY PHONE SERVICE DTES 07/26/09 07/26/11

24M GOOD TIME

NEXT DIN:

<CURSOR + ENTER> INC DETAIL

<ENTER> <PF3> EXIT(FUNCT)

<PF7> BACKWARD

<CLEAR> EXIT(SYSTEM)

NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES
COXSACKIE CORRECTIONAL FACILITY
WILLIAM LAPE
SUPERINTENDENT

MEMORANDUM

To: IGRC

FROM: V. Baldwin, NAI

DATE: 8/12/09

GRIEVANCE: CX-15336-09 INMATE NAME: C. Irizarry DIN: 99A0222

In this grievance, inmate Irizarry states he fractured his left knee during an altercation on 7/26/09 and tried to explain this to Nurse Giorgianni, but she did not document exactly what inmate Irizarry told her, documenting instead that he complained of pain in his knees. Inmate Irizarry says he's complained of knee pain several times but he's only being offered Motrin. He was seen by Dr. Miller and had x-rays done of his knee, but he hasn't heard anything. Inmate Irizarry wants to be seen by an outside doctor for a second opinion, and that he receive treatment for his knee.

During the post-altercation examination, Nurse Giorgianni documented all the injuries noted on inmate Irizarry's body and his complaints, which did not include an injury to his left knee. During the SHU admit exam, Nurse Pleines documented that inmate Irizarry was walking and yelling in his cell such that she could not complete the examination because he would not cooperate with her.

Inmate Irizarry was examined by Dr. Miller on 7/27/09 and on 8/03/09. Some swelling was noted to his left knee and he was ordered Ultram to address his pain. An x-ray was completed on 8/03/09 and showed no fracture or other significant abnormalities. He was notified of the results of the x-ray when the report was returned to the Medical Department.

This grievance is without merit and frivolous.

STATE OF NEW YORK - DEPARTMENT OF CORRECTIONAL SERVICES
INMATE GRIEVANCE COMPLAINT
COXSACKIE CORRECTIONAL FACILITY

22

Grievance No.
CX-15336-09Short Title REQUEST MEDICAL ATTENTION FOR KNEE INJURYDate: Monday, August 10, 2009Name: IRIZARRY, C Dept. No.: 99-A-0222 Housing Unit: SHU-2-8

Program AM: _____ PM: _____

(Please Print or Type - This for must be filed within 21 days of Grievance Incident)

Description of Problem: (Please make as brief as possible) :

SEE ATTACHED COPYGrievant
Signature: _____
Signature and Hand written original on file with I.G.R.C. Office

Inmate Grievance Resolution Committee clerk

Grievance Clerk: _____ Date: **RECEIVED 8/10/2009**Advisor Requested: ☐ YES ☐ NO Who: _____

Action requested by inmate:

This Grievance has been informally resolved as follows:

This Informal Resolution is accepted:

(To be completed only if resolved prior to hearing)

Grievant
Signature: _____ Date: _____

If unresolved, you are entitled to a hearing by the Inmate Grievance Resolution Committee (IGRC).

EXHIBIT

E

GRIEVANCE	LASTNAME	DIN	FILED	TITLE	DISPO	Reviewer
A-45277-03	IRIZARRY	99A0222	6/16/03	Moved To SHU - Property Missing	7/30/03	TV
GH-60819-06	IRRIZARRY	99A0222	11/1/06	Verbal Abuse	12/27/06	JD
GH-62048-07	IRIZARRY	99A0222	3/16/07	Threats By CO And Sergeant	5/2/07	RE
GH-62105-07	IRIZARRY	99A0222	3/26/07	Dismiss Misbehavior Report	6/6/07	RJ
GH-62106-07	IRRIZARRY	99A0222	3/26/07	Tried To Trip	6/20/07	RJ
CX-15320-09	IRIZARRY	99A0222	8/3/09	Unprofessional Conduct	9/9/09	TC
CX-15336-09	IRIZARRY	99A0222	8/10/09	Need Medical Attention	10/7/09	JA
CX-15319-09	IRIZARRY	99A0222	8/3/09	Staff Assault	10/21/09	JA

EXHIBIT

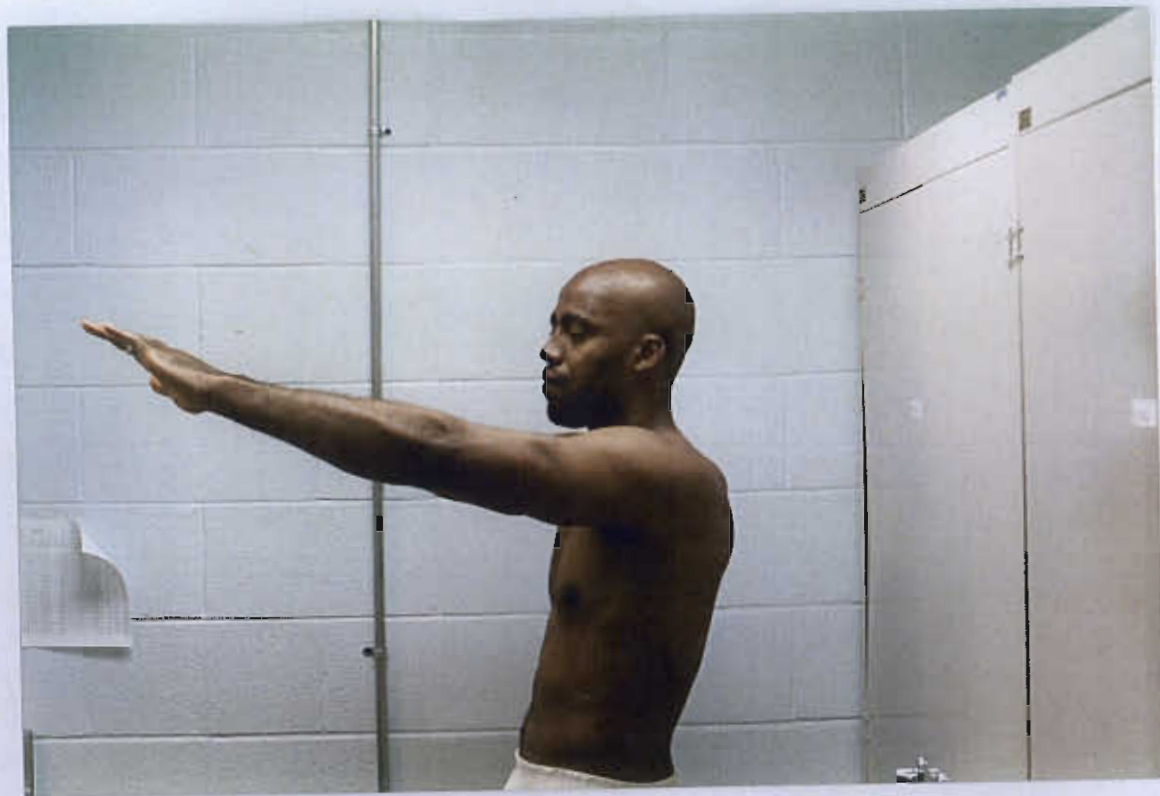
F

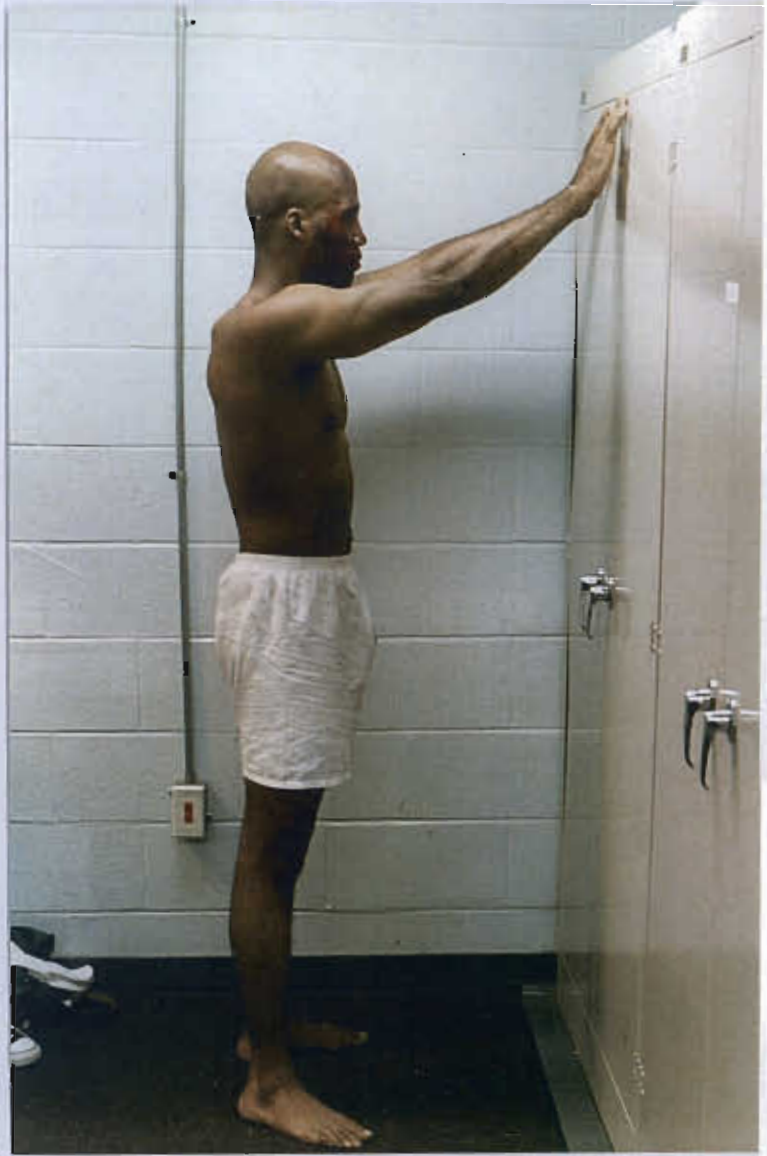
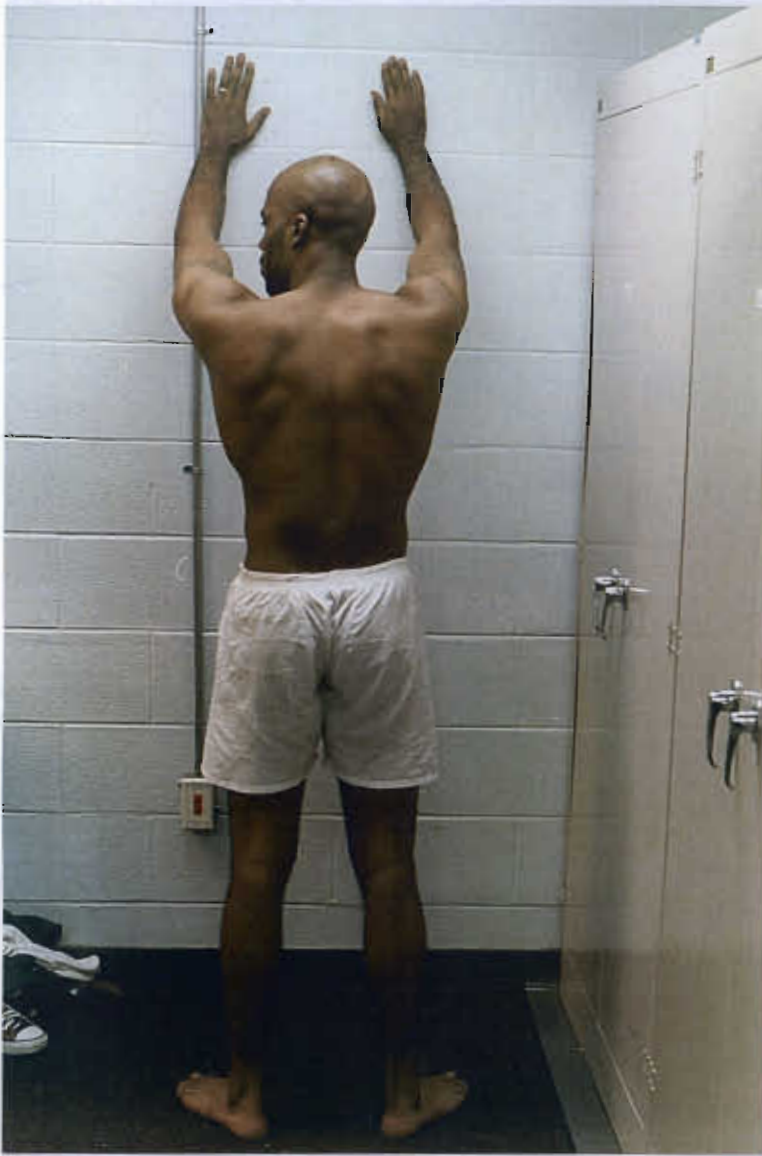
EXHIBIT F -- ESCORT VIDEOTAPE

Filed with the Court conventionally via U.S. mail,
and sent to the Inmate Records Office at Plaintiff's
Facility for his review in opposing this motion.

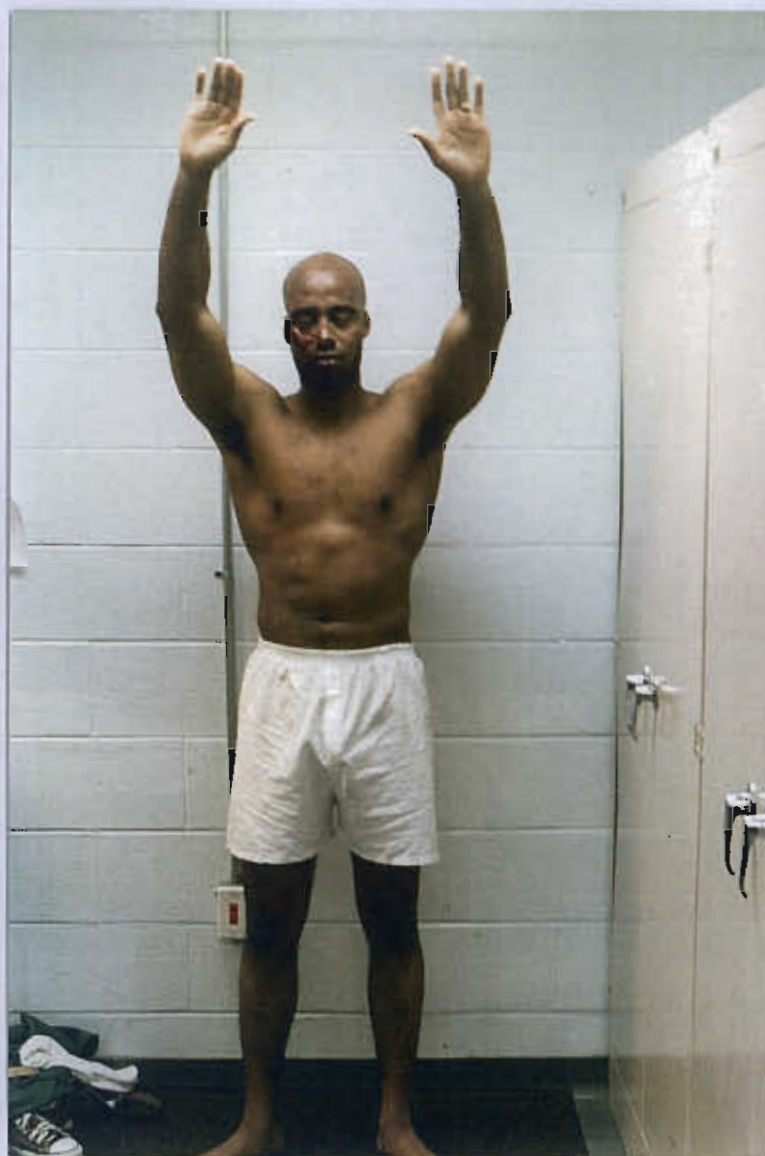
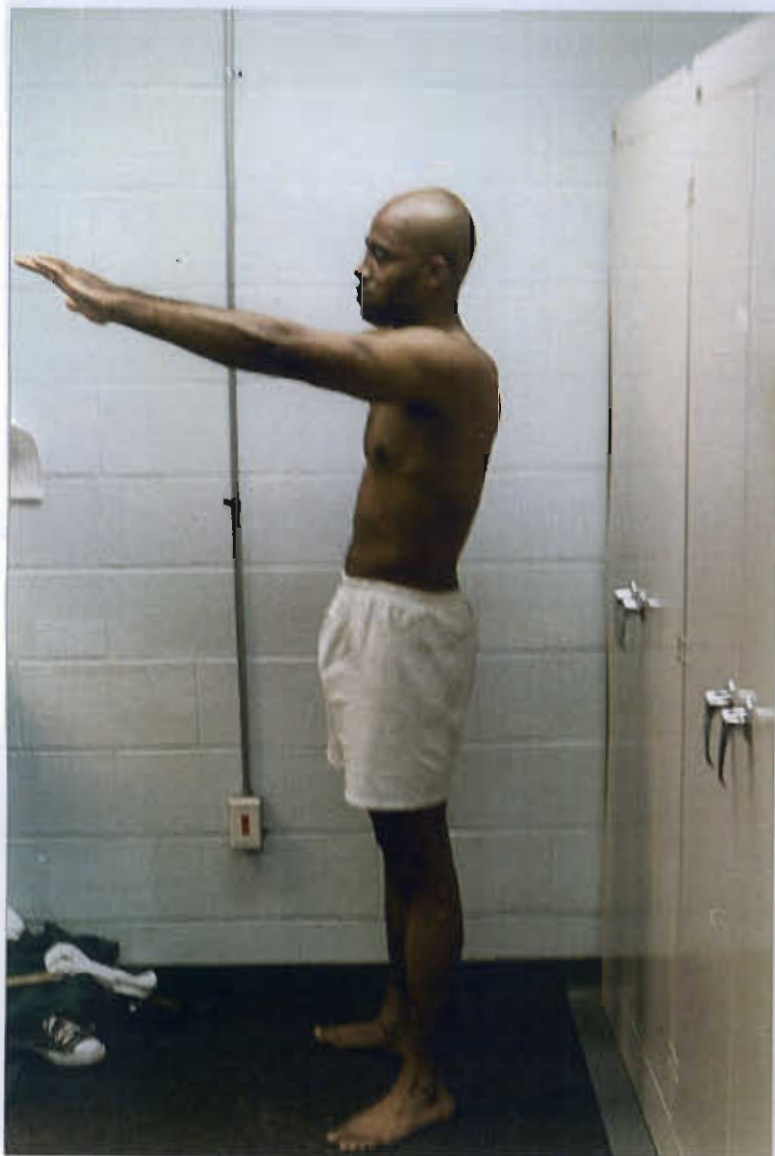
EXHIBIT

G









EXHIBIT

H

EXHIBIT H -- MEDICAL RECORDS

Filed separately.